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# Appeal Decision

Site visit made on 25 November 2020

**by K Winnard LL.B (Hons) Solicitor**

**an Inspector appointed by the Secretary of State**

**Decision date: 16/12/2020**

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**Appeal Ref: APP/B5480/D/20/3255013**  
**25 Ashmour Gardens Romford RM1 4RH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Shazan Hussain against the decision of the Council of the London Borough of Havering.
  - The application Ref. P0581.20, dated 28 April 2020, was refused by notice dated 24 June 2020.
  - The development proposed is a two storey side extension and part two storey rear extension and a front porch.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The development, the subject of the appeal, consists of a number of elements. The Council has indicated that it has no objections to the two storey side extension and a front porch and that the ground floor element of the rear extension is deemed acceptable. The Council's specific concerns relate to the first floor element of the rear extension. Accordingly, I shall direct my assessment to that element of the proposal.

## Main Issues

3. The main issues in the appeal are:
  - (i) The effect of the proposed development on the living conditions of the occupiers of adjacent dwellings; and
  - (ii) The effect of the proposed development of the character and appearance of the area.

## Reasons

### *Living Conditions*

4. The appeal property, No 25 Ashmour Gardens (No 25) is a semi detached property which already benefits from an approval for a two storey and part single storey side, a single storey rear extension and front porch extension. The proposed scheme, the subject of the appeal, incorporates a first floor extension projecting from the two storey side extension at the rear, (the proposed first

floor extension) which would be adjacent to the common boundary of the neighbouring property at No 27 Ashmour Gardens (No 27). The Council's Residential Extensions and Alterations Supplementary Planning Document SPD (SPD) on two storey rear extensions requires that rear extensions should be carefully designed to minimise the effect of their bulk. It provides that they should be set in from the common boundary with any attached dwelling by not less than 2 metres and should project no further than 3 metres. An equivalent degree of amenity is required to be secured for the neighbouring property on the non attached boundary and indicates that for this reason two storey extensions built up to the property boundary of the non attached dwelling will not normally be acceptable.

5. The proposed first floor extension would result in a dominating and overbearing built form on the side boundary with No 27. Whilst there is a small hardstanding behind the garage of No 27 between the dwelling and the boundary fence, which would provide a degree of separation, the projection of the proposed first floor extension above this part of the boundary fence would give rise to an increased sense of enclosure for the occupiers of No 27, dominating the outlook.
6. I acknowledge that the proposed first floor extension has been designed so as not to include windows on the side elevation and that the rear garden of No 27 would consequently be screened from No 25. Moreover, I note that the principal habitable ground floor room of No 27 would be further away from the proposal. Nonetheless, the massing of the development would appear oppressive when viewed from inside the house or its garden.
7. The appellant has submitted data on overshadowing/loss of light in support of the proposal. My attention has also been drawn to the 45 degree rule within the SPD, the aim of which is to ensure that any proposed side extension does not result in undue loss of sunlight or daylight to the affected habitable room of the adjoining property. I note that whilst the Council has expressed concerns in relation to the loss of light this has not been quantified. Nonetheless, due to the proposed first floor extension being sited to the north of the host property, there would not be a significant overshadowing effect on the amenity of the occupiers of neighbouring properties in respect of sunlight. In this instance, however, it is the increase of the mass of the building at first floor level on the common boundary which would cause the harmful effect. Accordingly, this factor in itself does not weigh in the proposal's favour.
8. Nonetheless I consider that my findings on outlook are sufficient to determine that the proposed first floor extension would have a significantly harmful effect on the living conditions of the occupiers of No 27. I note that the Council has raised no concern in relation to the amenities of the occupiers of No 23. I would concur with this assessment given the separation distances, as shown on the plans, between No 23 and the proposed first floor extension.
9. For the above reasons the proposal would result in unacceptable harm to the living conditions of the occupiers of No 27. The proposed first floor extension would therefore conflict with Policy DC61 of the Havering Core Strategy and Development Control Policies Development Plan Document (LDF) and Policy 7.4 of the London Plan, which together seek to protect residential amenity. It would also conflict with the Council's SPD which provides that extensions should maintain a reasonable outlook from adjoining properties.

### *Character and Appearance*

10. The proposed first floor extension would be built up from the proposed ground floor single storey element of the proposal which takes up the full width of the property. The rear elevation of No 25 and neighbouring properties are visible from the rear gardens of Ashmour Gardens and Priests Avenue. There is a general open aspect to the outlook from rear gardens with little first floor rear development noticeable. Whilst not extending across the full width of the ground floor extension, the proposed first floor rear extension, would be a dominant feature in the outlook from the rear gardens.
11. The Council's SPD requires rear extensions to be carefully designed to minimise their bulk. Whilst the appellant refers to figure 6<sup>1</sup> as supporting the proposed width design at first floor level, it appears to me that this figure is specifically illustrative of the guidance for design of pitched roofs on a two storey rear extension to a semi detached property not a side extension up to the boundary projecting at the rear. Nor do references to street scene necessarily preclude references to views from the rear of properties. The bulk of the proposed first floor extension would increase the dominance of No 25 from views from nearby properties and to that extent the proposal would harm the character and appearance of the area.
12. I appreciate there is a current permission obtained by the appellant for an alternative scheme at first floor level. However whilst this demonstrates that there is no policy objection to the principle of an extension at first floor level, my assessment turns on the character and appearance of the area as a result of the current proposal and which I have determined on its own merits.
13. The appellant has drawn my attention to other developments within the local area where approval has been given for extensions of various sizes. I do not have the details before me as to how these extensions, which share elements of the appeal proposal, have been accepted and the individual circumstances involved. Accordingly, direct parallels are not easily drawn. However, the existence of these extensions does not justify development which would otherwise be unacceptable. In any event I have determined the appeal proposal on its own merits and for the reasons above have concluded that the proposed development would cause harm
14. I therefore conclude that the proposal would result in unacceptable harm to the character and appearance of the area in conflict with Policy DC61 of the LDF; Policy 7.4 of the London Plan and the SPD. Together these policies and guidance aim amongst other matters, to secure development which respect local character and to respect the scale, massing and height of the surrounding physical context.

### **Other Matters**

15. In reaching my decision I have had regard to references in Local Policy/National Planning Policy Framework in support the proposal including energy efficiency, the incorporation of natural light and ventilation within the development, noise mitigation, density and the general improvement of the property including the desirability of enlarging the housing stock for larger

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<sup>1</sup> Section 5.12 of the Residential Extensions and Alterations Supplementary Planning Document

families and the sustainable location of No 25. Whilst I give moderate weight to the provisions cited in support, they do not outweigh the harm I have identified above in respect of the proposal. The appellant indicates that the proposal would incorporate good design but aspects of good design are fundamental in any development.

16. The conduct of the Council in its handling of applications at the property has been raised, but this is not a matter before me nor is it one which alters my findings.
17. I give limited weight to the suggestion that in the event of any application for an extension of the neighbouring property, approval of the appeal scheme would create a precedent to the benefit of any proposed future improvements to the property. Planning permission that results in unacceptable harm should not be granted on the basis of unconfirmed intentions which in any case may not secure permission or be implemented.
18. Whilst the Council do not object to the two storey side extension and front porch and ground rear extension, these elements are not physically and functionally severable from the proposal, and so I do not consider that a split decision is appropriate in relation to these particular elements of the proposal.

### **Conclusion**

19. The proposed first floor level extension would have a harmful effect on the character and appearance of the area and would harm the living conditions of the occupiers of No 27. There are no other considerations which would outweigh these findings or the conflict with the Development Plan. Accordingly, I dismiss the appeal.

*K Winnard*

INSPECTOR