

Appeal Decision

Site Visit made on 8 June 2021 by G Sibley MPLAN MRTPI

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2021

Appeal Ref: APP/C1950/D/21/3268054

52 Maryland, Hatfield AL10 8DX

- 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 & Mrs H Dave against the decision of Welwyn Hatfield Council.
 - The application Ref 6/2020/2204/HOUSE, dated 24 August 2020, was refused by notice dated 4 December 2020.
 - The development proposed is front and rear extension in conjunction with No 50 Maryland (under separate application).
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Decision

1. The appeal is dismissed insofar as it relates to the proposed rear extension.
2. The appeal is allowed in part and planning permission is granted for front extension at 52 Maryland, Hatfield AL10 8DX in accordance with terms of application, Ref: 6/2020/2204/HOUSE, dated 24 August 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following plans: Location Plan ID: BW1 – 00875868; Block Plan DWG No mma.477 F; Proposed Elevations DWG No mp.234 B; Plans as Proposed DWG No mp.234 E; and Roof Plans Existing and Proposed DWG No mp.207004 D only insofar as it relates to the front extension and not the rear extension which does not form part of the approved development.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those on the host dwelling.

Appeal Procedure

3. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

4. An application and subsequent appeal have also been made for a similar development at No 50 Maryland which is the attached neighbouring property (Appeal Ref: APP/C1950/D/21/3268055). While the two applications were originally submitted at the same time and by the same planning agent, they and the resulting appeals were submitted by different appellants and as a result cannot be formally linked. Nonetheless, both appeals refer to the other

proposal and I have had regard to this where appropriate in my recommendation. However, each case has been considered on its own merits and must be decided separately.

5. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework (the Framework). Accordingly, and in light of the reference made to the previous iteration of the Framework within the submitted evidence, the parties have been provided with a further opportunity to make submissions in respect of the publication. Any comments which have been received have been addressed within the appeal decision.

Main Issue

6. The effect of the proposed development on: the living conditions of the occupiers of No 50 Maryland in terms of outlook; and on the character and appearance of the host dwelling.

Reasons for the Recommendation

Living conditions

7. The ground floor of the proposed rear extension would remain as existing. The proposed first floor would be built close to a bedroom window in the rear of No 50, which is the only window that serves this habitable room. The proposed first-floor extension would extend approximately 3 metres (m) out along the shared boundary and, due to its depth and siting, it would be a prominent and dominant feature in the outlook from that bedroom. Furthermore, it would enclose the outlook from the bedroom on that side, to the extent that it would appear overbearing and would fail to ensure that the living conditions within the buildings would be satisfactory. Accordingly, the proposed rear extension would harm the living conditions of the occupiers of No 50.
8. The appellant acknowledges that the development would affect the living conditions of the occupiers of No 50 but they contend that if the two appeal proposals were built together then that issue could be overcome. They suggest imposing a planning condition requiring that a construction programme including a timetable of works to be submitted prior to work starting on the first floor of the proposed extension.
9. It would be unreasonable to grant permission subject to a condition preventing the approved development being undertaken until actions were taken by another party unless there was a reasonable prospect that that other party would also comply.
10. The applications for Nos 50 and 52 were submitted separately, rather than as a joint application for both properties. While both appellants have signed a Joint Undertaking Statement indicating their intention to build together, there is no substantive evidence before me that the appellant or any other party has sufficient control over both properties to ensure that both extensions would be built together and in accordance with a specified timetable.
11. I appreciate that there would be potential cost savings to both appellants of building at the same time. If both appeals were allowed, even with the suggested condition, there would be no obligation on either party to implement their permission. Any planning permission would run with the land and would have 3 years to be implemented. Within that time period the occupancy or

ownership of one or both of the properties could change, or one party could decide not to go ahead with their development. Therefore, if No 50 did not wish to, or were otherwise unable to implement the first-floor element of their rear extension, that could prevent the first-floor rear extension of this appeal proposal being built. The failure by one party to carry out their development would therefore stymie the appellant from implementing part of their permission, which would not be reasonable.

12. Nor would there be any requirement for the appellants or landowners to work together to agree a timetable in respect of the suggested condition, or to stick to it. Therefore, potentially one party could submit a timetable for carrying out both sets of works, thereby complying with the first part of the condition, without any agreement from the other party, and without any certainty that it could be achieved.
13. Therefore, for these reasons, the suggested condition would not be reasonable or enforceable. This could potentially be resolved through a legal agreement including obligations on the appellants and landowners (and their successors in title) to undertake their developments in a specified way. However, no such legal agreement is before me. The Joint Undertaking Statement submitted for both appeals is not a legally binding agreement or planning obligation.
14. Consequently, the first-floor part of the proposed rear extension would cause harm to the living conditions of the occupiers of No 50 in respect of outlook. Therefore, it would be contrary to Policy D1 of the Welwyn Hatfield District Plan 2005 (LP) (adopted 2005) as well as emerging Policy SADM11 of the Draft Local Plan Proposed Submission August 2016 (DLP) and the Supplementary Design Guidance (SDG) (adopted 2005) insofar as they expect development to be of a high quality that protects the outlook and visual amenity afforded from within buildings and avoid new development being overbearing upon existing buildings. Additionally, the proposal would be contrary to paragraph 130(f) of the Framework insofar as it requires that developments create places that have a high standard of amenity for existing and future users.
15. The proposed front extension would be of limited scale and depth and as such would have little impact on the living conditions of No 50, and I therefore find no conflict with the above policies in respect of this aspect of the proposal.

Character and appearance

16. The wider area is characterised by terrace development with a relatively consistent appearance, and some variation in the external materials used. There are several dwellings with porches and whilst their appearance varies, they are not uncommon within the wider area. As a result, given the scale and appearance of the proposed front extension it would not harm the character and appearance of the host dwelling.
17. To the rear of the dwelling is a single storey building, built on higher ground than the house, which blocks views of the rear of the dwelling. The dwelling is set at a slight angle to the road, such that the side of the existing single storey extension can be seen, although this is partially blocked by a tree. The flank wall of the proposed first floor extension would also be visible from the road; however, it would be of limited depth with a hipped roof lower than that of the main dwelling. The existing side utility room would also break up the massing of the side of the building. Therefore, the proposed front and rear extensions,

combined with the existing single storey extension, would not appear disproportionately large in relation to the host dwelling. Accordingly, and as they would use similar materials to the host dwelling, the proposed extensions would not appear out of character.

18. Therefore, the proposed development would not harm the character and appearance of the host dwelling. As a result, the proposal would comply with LP Policies D1 and D2, emerging DLP Policy SP9 and the SDG insofar as they expect development to be of a high quality that responds to local character and context. Additionally, the proposal would not conflict with the Framework requirement to achieve well-designed places. The lack of harm in this respect would not however overcome the harm to living conditions set out above.

Conclusion and Recommendation

19. The proposed front extension would be capable of being constructed independently of the proposed rear extension. As such, and as that element of the proposal is acceptable in all respects, I am able in these circumstances to issue a split decision.
20. Consequently, I recommend that, insofar as it relates to the proposed front extension, the appeal should be allowed. However, the proposed rear extension would harm the living conditions of the neighbouring occupiers and there is no mechanism before me to satisfactorily mitigate that harm. As such, there are no material considerations that indicate that this element of the appeal should be determined other than in accordance with the development plan. I therefore recommend that the appeal should be dismissed insofar as it relates to the proposed rear extension.

Conditions

21. Further to the statutory commencement condition, in the interest of certainty and the character and appearance of the area it is also necessary to ensure that the development is completed in accordance with the approved plans and the materials to match those on the existing dwelling.

G Sibley

APPEAL PLANNING OFFICER

Inspector's Decision

22. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall allow the appeal insofar as it relates to the proposed front extension, subject to the conditions listed above; and dismiss the appeal insofar as it relates to the proposed rear extension.

L McKay

INSPECTOR