



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/21/3268055

50 Maryland, Hatfield, Hertfordshire

- 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 Mrs B Grewal against the decision of Welwyn Hatfield Council.
 - The application Ref 6/2020/1914/HOUSE, dated 18 July 2020, was refused by notice dated 4 December 2020.
 - The development proposed is rear and front extension to house.
-

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 to house at 50 Maryland, Hatfield AL10 8DX in accordance with the terms of application, Ref: 6/2020/1914/HOUSE, dated 18 July 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.4777D; Proposed Elevations DWG No mp.253434 B; Proposed Floor Plans DWG No mp.2231 A; and Roof Plans Existing and Proposed DWG No mp.200004 E 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 52 Maryland, which is the attached neighbouring dwelling (Ref: APP/C1950/D/21/3268054). 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 Issues

6. The effect of the proposed development upon:
 - i) the living conditions of the occupiers of 52 Maryland in terms of outlook and light;
 - ii) the living conditions of the occupiers of 48 Maryland in terms of outlook; and
 - iii) the character and appearance of the host dwelling.

Reasons for the Recommendation

Living conditions for the occupiers of No 52

7. The proposed first floor extension would extend approximately 3 metres (m) out from the host dwelling. It would be built close to the rear bedroom window of No 52, which is the only window that serves this habitable room. Given the depth and siting of the proposed extension, it would be a very prominent feature when seen from this window, enclosing one side and dominating the outlook from the bedroom to the extent that it would appear overbearing.
8. Furthermore, given the orientation of this pair of dwellings, the scale of the proposed first floor extension would result in a loss of sunlight and daylight to that neighbouring bedroom. Whilst there would be some loss of sunlight to the rooflights above the kitchen on the nearside of the rear extension, the two on the opposite side of the roof would be unaffected and the kitchen is also served by a large, glazed patio door and window on the rear wall as well as a window on the flank wall which allows for ample sunlight to reach the kitchen. Nevertheless, the loss of light to the rear bedroom, combined with the reduced outlook, would fail to ensure that the living conditions within the building would be satisfactory. Therefore, the proposed first floor rear extension would harm the living conditions of the occupiers of No 52 in respect of outlook and light.
9. The appellant acknowledges that the development would affect the living conditions of the occupiers of No 52 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.
10. 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.

11. The applications for Nos 50 and 52 were submitted separately, rather than as a joint application for both properties. The appellant for this appeal has submitted Ownership Certificate B, which was served on someone at No 52, indicating that No 50 is owned by the same person as No 52. However, the name given on the Certificate is not the same as that of the applicant for the scheme at No 52 or the signatory of the Joint Statement submitted by the appellant. Therefore, I cannot be certain 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.
12. I appreciate that the appellants at Nos 50 and 52 state that they intend to work together, and the potential cost savings of doing so. 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. The failure by one party to carry out their development could stymie the appellant from implementing part of their permission, which would not be reasonable.
13. Nor would there be any requirement of 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.
14. Requiring the appellant to wait on the other party to complete their works would put an unjustified and disproportionate burden on the appellant. Under the suggested condition, work could begin on the ground floor elements of No 50 but they would not be able to build the first-floor elements until the extension at No 52 was started. This could create an unacceptable living environment for the occupiers of No 50.
15. 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.
16. The Planning Practice Guidance¹ states that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. Given that the appellant has stated that they do not wish to enter into a legal agreement, such a condition would not be reasonable in this instance.
17. Consequently, the first-floor part of the proposed rear extension would cause harm to the living conditions of the occupiers of No 52 in respect of outlook and light. 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

¹ Paragraph 005 Reference ID: 21a-005-20190723

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.

18. The depth of the single storey part of the proposed rear extension would be similar to that of the extension already built at No 52, and as such it would not unduly enclose or appear overbearing from the rear ground floor rooms of the neighbouring dwelling or its garden. Due to its limited scale and depth, the proposed front extension would have little impact on the living conditions of the neighbouring occupiers. As such, I find no conflict with the above policies in respect of these aspects of the proposal. This does not however outweigh the harm from the first-floor part of the proposed rear extension.

Living conditions for the occupiers of No 48

19. No 48 is the attached neighbour to the south west of the appeal property. To the rear of No 48 is a relatively long garden and parking courtyard and as a result, the outlook to the rear is relatively unobstructed. To the rear of No 48 is a shallow patio and the rest of the garden is at a raised level. As a result, the full height of the extension would not be appreciated from most of the garden. The proposed flank wall of the rear extension would be slightly taller than the existing boundary fence and would have a flat roof.
20. The ground floor of the proposed extension would be built close to the boundary between the two properties and would be considerably deeper than an existing conservatory, which it would replace. As such, it would be clearly visible from the windows and garden of No 50. However, the first-floor element would be set back from the shared boundary and as a result would not be overly visible from the rear of the dwelling.
21. Given the limited height of the ground floor element and the depth of the garden, I find that despite its depth along the boundary, the outlook from the rear of the dwelling would not be harmfully enclosed. For these reasons and the changing ground levels, taken as a whole the proposed rear extension would not unduly enclose the rear of the property and would ensure that the living conditions within the building would be satisfactory. Accordingly, the proposed extension would not unduly adversely affect the outlook from the rear of No 48.
22. Therefore, the proposed development would not significantly adversely affect the living conditions of the occupiers of No 48 in respect of outlook, and therefore would not conflict with LP Policy D1, emerging DLP Policy SADM11, the SDG or Framework paragraph 130 (f) in relation to that property.

Character and appearance

23. The proposed front extension would be subordinate in scale and appearance to the host dwelling, using similar materials in its construction. The wider area is characterised by terraced development with a relatively consistent appearance, and some variation in the external materials used. A number of dwellings already have porches of various designs, so they are not uncommon features in

the area. As a result, given the limited scale and sympathetic appearance of the proposed front extension, it would not cause harm to the character and appearance of the host dwelling.

24. Because No 50 is a mid-terrace dwelling, the proposed development to the rear would not be visible from the road. It would however be seen from the parking court to the rear and neighbouring dwellings. The proposed first-floor extension would have a lower roof ridge than the existing dwelling and the hipped roof would reduce its massing, while it would only extend across part of the width of the dwelling. The ground floor part of the rear extension would be relatively large but given its limited height and position it would not be easily visible from the rear due to the tall rear garden wall and would be partly screened by boundary fences in views from neighbouring dwellings. Additionally, the proposed materials would be similar to those used in the construction of the host dwelling and as a result, would not appear out of character. Overall, therefore, the design and form of the proposed rear extension would appear subservient in scale and appearance to the existing dwelling and not disproportionately large. Accordingly, it would not detract nor dominate its appearance and would not overwhelm the original dwelling.
25. Therefore, the proposed development would not adversely affect 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.

Conclusion and Recommendation

26. 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.
27. Consequently, I recommend that the development should be allowed insofar as it relates to the proposed front extension. However, the proposed first-floor rear extension would harm the living conditions of the neighbouring occupiers, and there is no mechanism before me to satisfactorily mitigate this harm. There are no material considerations that indicate that this element of the appeal should be determined other than in accordance with the development plan. Therefore, I recommend that, insofar as it relates to the proposed rear extension, the appeal should be dismissed.

Conditions

28. 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

29. 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