



Appeal Decision

Site Visit made on 30 September 2021

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2021

Appeal Ref: APP/R5510/D/21/3280568

14 Nicholls Avenue, Uxbridge UB8 3JL

- 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 Mohammed Haji against the decision of London Borough of Hillingdon.
 - The application Ref 788/APP/2021/1573, dated 20 April 2021, was refused by notice dated 15 June 2021.
 - The development proposed is a single rear/side extension and all associated works.
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Decision

1. The appeal is dismissed.

Costs

2. The appellant has submitted an application for costs against the London Borough of Hillingdon. This application is subject of a separate decision.

Preliminary Matters

3. The address as detailed on the application form does not detail a property number. The submitted plans, design and access statement and all subsequent correspondence clearly refer to 14 Nicholls Avenue, Uxbridge UB8 3JL. I have therefore included a property number in the banner heading above in the interests of clarity.
4. As a result of an Article 4 Direction being in place planning permission is required for the appeal scheme. While I have not been provided with all the details of the Direction, that a Direction exists and consequently that planning permission is required for the proposed works is not at dispute between the parties and I have no substantive reason to disagree.

Main Issues

5. The main issues are the effect of the proposed development on:
 - i. The character and appearance of the area, including the appeal property.
 - ii. The living conditions of the occupiers of 16 Nicholls Avenue, with particular regards to loss of light and outlook.
 - iii. The living conditions of the future occupiers of the property, with particular regards to external windows serving the kitchen/dining room.

Reasons

Character and appearance

6. Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (SP) seek, amongst other matters, high quality development that is in keeping with the surrounding area. Similarly, Policies DMHB 11 and DMHD 1 of the Hillingdon Local Plan: Part Two - Development Management Policies (DM) seeks new development that harmonises with the local context and does not have an adverse cumulative impact on the character of the area.
7. It is the Council's case that, as a result of the size and scale of the appeal scheme, it would not appear as subordinate to the appeal property and would consequently represent a "visually over dominant and unsympathetic form of development".
8. The appeal property is a modest bungalow with accommodation in the roof space, this is the prevailing property type in the local area. As referred to by the appellant, many of the surrounding properties have been subject to various extensions, including large rear extensions.
9. The submitted plans show that the proposed extension would extend from the rear elevation of the appeal property by 5 metres and would be the full width of the property, in addition to a side extension. I note that the plans have been amended from earlier iterations with the reduction in the length of the extension and the replacement of the pitched roof with a flat roof. Nonetheless the appeal scheme is substantial in itself and in proportion to the appeal property.
10. At the site visit I saw that many properties in the local area have been subject to various extensions but by no means all properties, the area and appeal property still retained the overall character of modest dwellings set within their own respective well-proportioned plots. The proposed development, as shown on the submitted plans would envelop the appeal property fundamentally changing the character and appearance of the property harming the character and appearance of the area.
11. As a result of the size and scale of the proposed development and for the reasons detailed above, I find that the appeal scheme therefore contrary to Policy BE1 of the SP, Policies DMHB 11 and DMHD 4 of the DM.

Living Conditions of 16 Nicholas Avenue

12. Policy DMHD 1 of the DM requires that, amongst other matters, rear extensions to detached houses should not exceed 4 metres in depth.
13. The appeal scheme would project some 5 metres along the shared boundary with 16 Nicholas Avenue from the rear elevation of the appeal property that is situated approximately level with the rear elevation of the No.16.
14. In support of the appeal the appellant has detailed that the proposed extension would project 4m from the rear wall of No.16 and that "the 45-degree sightline is not infringed". While clearly stated, no substantive evidence has been provided to support this assertion and at the site visit I saw that there were windows in the rear elevation of No.16 adjacent to the boundary with the

appeal site. As such I am not satisfied that it has been demonstrated that the appeal scheme would not break the "45-degree line".

15. I note that many other properties in the area have been extended in the past and the appellant suggests that the currently un-extended No.16 might be extended in future. While this is a theoretical possibility, I have no substantive evidence before me to suggest that this is likely or planned by the occupier of that property.
16. The Appellant refers to a similar extension at 12 Nicholas Avenue that was granted planning permission¹. The Appellant details that this decision should be taken into account and I agree that it is a material consideration that I afford some weight to. However, I note that it was clearly demonstrated in that instance that the scheme would not break the 45-degree line and this decision was made prior to the adoption of the DM, in particular Policy DMHD 1 that sets the detailed criteria for the consideration of such proposals.
17. As a result of the significant projection of the proposed extension beyond the rear elevation of the appeal property and that of No.16, the appeal scheme would result in unacceptable harm to the living conditions of the occupiers of that property with particular regards to outlook and overshadowing.
18. Consequently, I find that the appeal scheme is in conflict with Policy DMHD 1 of the DM.

The living conditions of future occupiers

19. Policies DMHB 11 and DMHD 1 of the DM, amongst other matters, require new development to have an internal layout to maximise sustainability and protect living conditions, Policies D6 and SI2 of the London Plan (LP) set housing quality and standards and seeks to minimise greenhouse gas emissions.
20. The submitted plans show the proposed extensions wrapping around the rear and part of the side elevation of the appeal property. As a result, the room labelled as 'Kitchen & Dining' would become a largely internal room without traditional external windows. The plans do however include two rooflights that would provide some daylight, nonetheless very limited outlook would be provided by the roof lights.
21. While the appellant details that internal alterations do not constitute development, I am satisfied that on the basis of the evidence before me the loss of external windows is a direct result of the appeal scheme and is therefore a material consideration in the determination of the appeal.
22. Furthermore, the appellant suggests that the main room of the extension and the 'Kitchen & Dining' could be merged. However, that proposal is not before me and I have based my decision on the submitted plans. That a condition could be attached to any permission resulting from this appeal is also suggested. No wording of such a condition has been provided and I am not clear as to how a condition could resolve this matter.
23. On the basis of the evidence before me I am satisfied that in the absence of traditional external windows and while acknowledging the two rooflights, the appeal scheme would fail to provide acceptable living conditions for the future

¹ 49028/APP/2017/1655 approved 28 June 2017

occupiers of the property and the absence of external windows would lead to a reliance on artificial lighting.

24. Therefore, I find that in this respect the appeal scheme is contrary to Policies DMHB 11 and DMHD 1 of the DM and Policies D6 and SI2 of the LP.

Conclusion

25. For the reasons given above I conclude that the appeal should be dismissed.

Mr M Brooker

INSPECTOR

