



Appeal Decision

Site visit made on 28 February 2022

by Julie Dale Clark BA (Hons) DipTP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24TH march 2022

Appeal Ref: APP/N5090/D/22/3290018

69 Fitzjohn Avenue, Barnet EN5 2HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Marc Thompson against the decision of Barnet London Borough Council.
 - The application Ref 21/5192/S73, dated 27 September 2021, was refused by notice dated 1 December 2021.
 - The application sought planning permission for a single storey rear extension without complying with a condition attached to planning permission Ref 21/1634/HSE, dated 23 June 2021.
 - The condition in dispute is No 1 which states that: *The development hereby permitted shall be carried out in accordance with the following approved plans: SB20/FA/001; SB20/FA/002; SB20/FA/003; SB20/FA/004; SB20/FA/005; SB20/FA/006; SB20/FA/007; SB20/FA/009; SB20/FA/008-REV:01; SB20/FA/010-REV:01; SB20/FA/011-REV:01.*
 - The reason given for the condition is: *For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).*
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Decision

1. The appeal is dismissed.

Background

2. The proposal would involve varying the plans, in particular Drawing Nos: SB20/FA/008-REV:01; SB20/FA/009; SB20/FA/010-REV:01; and SB20/FA/011-REV:01 so that a larger single storey extension could be built in accordance with revised plans Drawing Nos: SB20/FA/008-REV:04; SB20/FA/009: REV:04; SB20/FA/010-REV:04; and SB20/FA/011-REV:04.

Main Issues

3. I consider that the main issues are the effect of the proposed extension on (1) the character and appearance of the area; and (2) the living conditions of the occupiers of the adjacent property, No 67 Fitzjohn Avenue.

Reasons

Character & Appearance

4. The appeal site is a semi-detached house that previously had a conservatory to the rear. This had been demolished at the time of my site visit but the approved extension would have replaced this in terms of its position and depth from the rear wall of the house. The rear garden is on a lower level than the house so that the extension would be elevated above the ground level of the garden. It is also proposed to raise a patio with steps down to the garden.
5. The house has bay windows to both ground and first floor level and is fairly deep with a long rear garden. The proposed alternative plans would add just over a metre to the depth of the approved extension. The ground floor bay window would be retained although it would be incorporated within the extension; this would be the same arrangement as approved.
6. I have considered the effect of the proposed amendment in terms of Core Strategy Policy CS5¹ which seeks to ensure that development respects local context and distinctive local character that creates places and buildings of high quality design and Development Management Policy DM01² which also establishes the Council's requirement for high quality design based on an understanding of local characteristics and the preservation and enhancement of local character. I have also considered the council's SPD Residential Design Guidance³ which indicates that extensions should be consistent with the form, scale and architectural style of the original building. This can be achieved by, amongst other things, respecting the proportions of the existing house and reflecting its character.
7. The house is fairly deep in its design and the extension would add to that depth. However, given the extra depth proposed above that already approved, I do not consider that this would detract from the proportions or character of the existing house. In terms of this issue therefore I do not consider that the proposal conflict with these policies and guidance and do not find any harm in terms of the character and appearance of the area.

Living Conditions

8. The adjoining semi-detached house. No 67 also has bay windows to the rear (ground and first floor) but has not been extended to the rear as far as I can tell. The design of the bay is such that there is a window in the side of the bay as well as a window facing down the garden. The approved extension to No 69 would be close to the boundary with No 67.
9. In addition to the quality requirements set out in Policy DM01⁴, the policy also requires development to be designed to allow adequate daylight, sunlight, privacy and outlook for adjoining and potential occupiers. The Council's SPD advises that an acceptable rear projection to semi-detached houses is 3.5 metres in order to ensure that an extension does not cause a sense of

¹ Barnet London Borough – Barnet's Local Plan (Core Strategy) Development Plan Document September 2012.

² Barnet London Borough – Barnet's Local Plan (Development Management Policies) Development Plan Document September 2012.

³ Barnet London Borough Local Plan Supplementary Planning Document: Residential Design Guidance October 2016. (Part 3 Design Guidance for Existing Residential Development in Barnet).

⁴ Barnet London Borough – Barnet's Local Plan (Development Management Policies) Development Plan Document September 2012.

enclosure, or a loss of outlook or light to principal windows to habitable rooms. The approved extension slightly exceeds this but as it would have replaced an existing conservatory, the Council considered it acceptable. The proposal, however, would exceed this guideline by over a metre.

10. I note that No 67 appears to be sub-divided into two flats (probably ground and first floor) and part of the rear garden seems to be used for parking. It is not clear how the amenity space is shared. Regardless of this, due to the closeness of the bay window to the neighbouring house and the amenity space to its rear, the occupiers of the No 67 could be affected by the proposal, especially those occupying the ground floor. This would be exacerbated by the orientation of the properties with No 69 located to the south of No 67.
11. I am also concerned about the design of the extension in that it includes high level windows close to the boundary with No 67. The raised patio area would also project further rearwards as part of this development. Privacy screening has been suggested to the patio area and non-opening obscure glazing is suggested to the windows. Whilst these could be secured through a condition, I consider that these would only be necessary in order to alleviate the effects of a poorly designed extension. Windows, whether high level or not so close to the boundary would give the perception of a loss of privacy and adds weight to my concerns about what would be a fairly overbearing and visually intrusive extension so close to the boundary.
12. On this issue therefore, I find that the proposed additional rearward projection could have a harmful effect on the living conditions of the occupiers of No 67 and it would conflict with Policy DM01 and the SPD.

Conclusion

13. I have found that the proposal would not have a harmful effect on the character or appearance of the area but it would harm the living conditions of the occupiers of the neighbouring property, No 67 Fitzjohn Avenue. In this regard it would conflict with Policy DM01 and the Council's SPD.
14. I have considered all other matters raised but none alter my conclusion. I conclude that the proposal would have a harmful effect on the occupiers of the neighbouring house and it would conflict with the policy and guidance referred to.
15. The appeal therefore fails and the extension can be built only in accordance with the originally approved plans under planning permission Ref: 1/1634/HSE.

J D Clark

INSPECTOR