



Appeal Decision

Site visit made on 1 August 2022

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th August 2022

Appeal Ref: APP/T5150/D/22/3299577

61 Sudbury Court Road, Harrow, HA1 3SD

- 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 Dino Kumar against the decision of the London Borough of Brent Council.
 - The application Ref 21/4657 dated 21 December 2021, was refused by notice dated 7 March 2022.
 - The development proposed is removal of side garage door and demolition of detached garage and erection of two-storey side extension, single-storey rear extension and front extension/porch to dwellinghouse.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have utilised the Council's description of the development as per the decision notice as I feel it more concisely describes the development.
3. At the time of my site visit works had been carried out to the property including demolition of the detached garage and the internal side garage, construction of extensions to the rear and the part construction of a front extension/porch to the host building. The existing plans (SUDB-P-002) did not, therefore, represent what was on site at the point I visited. Whilst I note the planning history for the site, as outlined below, I have determined the appeal upon its own merits based upon the submitted plans before me regardless of the status of any existing works on site.

Main Issues

4. The main issues are the impact of the proposal upon i) the residential amenity of 59 Sudbury Court Road with regard to outlook, loss of light, overbearingness and sense of enclosure and ii) the character of the host building and streetscene.

Reasons

5. The appeal site is a two-storey, detached, dwelling located within a residential area. I can see, from the planning history within the Council's report, that the appeal site benefits from planning permission for a two storey rear extension, single storey garage and front porch extension (20/1635 – Granted – 4 August 2020) as well prior approval not being required for a single storey rear extension (6m) (15 November 2021). Despite this no further details of those schemes, such as approved plans, are before me within this appeal though I

note the appellant references 20/1635 within their statement with regard to the proposed porch/front extension.

Residential Amenity

6. The single storey rear extension would have an eaves height of 2.8m with a maximum height of 3m and protrude past the nearest rear elevation of 59 Sudbury Court Road by 3.5m. The Residential Extensions and Alterations 2018 (SPD2) guidance confirms that, for single storey rear extensions, the maximum depth normally permitted for detached houses is 4m. I find that the single storey extension would, in this case, be largely screened from the perspective of neighbouring occupiers by a brick and tile, pitched roof, outbuilding which stands along the shared boundary within 59 Sudbury Court Road. This is well demonstrated on the proposed block plan (SUDB-P-001). As a result of these site specific factors I find that the single storey rear extension element would be acceptable in terms of its impact upon residential amenity for neighbouring occupiers at 59 Sudbury Court Road.
7. The two storey side extension would be for the full depth of the host dwelling (with the exception at first floor level of a set-back in the region of 0.6m) finishing level with the existing rear elevation of the host building. Due to the staggered building line the neighbouring property, at 59 Sudbury Court Road, is forward of the appeal site which would result in the extension protruding notably past the existing rear elevation of 59 Sudbury Court Road making the 1:2 rule of relevance in terms of its objectives to avoid adverse impact for neighbouring occupiers. This is separate to the 45-degree rule used to assess sunlight and daylight outlined below.
8. The distance to the centre line of the nearest habitable window is stated by the Council to be 3.6m. This is not disputed by the appellant. Applying the 1:2 rule, this would allow for an extension of 1.8m from the host property. The proposal before me would exceed this by 1.7m due to a proposed depth of 3.5m. This would be a notable breach of the 1:2 rule that I find would result in an impact upon outlook for the occupiers of 59 Sudbury Court Road to warrant refusal due to the fact it will impact upon the basic ability of neighbouring occupiers to look outwards a reasonable distance from the nearest habitable window. The combined depth, height and lack of set in of the two storey side extension from the shared boundary would also result in an overbearing impact and sense of enclosure.
9. There are no windows proposed in side elevation A meaning that I do not find issue with facing habitable room windows as a result of the proposal. The Council's refusal reason cites loss of light; however, this is not assessed within the Council's report and I note from the submitted plans that the two-storey element would comply with the 45-degree rule from the centre of the neighbouring window. Even if I had concluded the proposal was acceptable in this regard, the proposal would still fail due to the unacceptable impact I have found on neighbouring occupiers with regard to overbearing impact, sense of enclosure and outlook.
10. The proposal would be contrary to Brent Local Plan 2022 (LP) Policy DMP1 which requires that proposals provide high levels of internal and external amenity. The proposal would be contrary to the guidance contained within SPD2 in terms of height, depth and proximity to the neighbouring boundary which would result in unacceptable impact upon neighbouring amenity, and

paragraph 130 of the National Planning Policy Framework 2021 (the Framework) which seeks to ensure a high standard of amenity for existing and future users.

Character of the host building and streetscene

11. The second refusal reason is specific to the first floor (side) extension and a lack of set-back from the building line. SPD2 confirms that, with two storey side extensions, the Council will permit development up to the boundary and that a set-in/set-back is required from the main front wall to ensure that the extension is subservient to the main house and to prevent the creation of a terracing effect between buildings. The side extension would have a set back of 0.6m from the front elevation at first floor level which is notably short of the 2.5m set-back advised within figure 3 of SPD2.
12. The side extension roof would have a lower ridge height than that of the host dwelling¹ resulting in a set down of 0.9m and, combined with the staggered building line, I find that this more limited set back at first floor level would mean the extension would present as subservient in this case. Given the single storey garage at 59 Sudbury Court Road I do not find that the proposal would result in a terracing effect as a clear visual gap would still be maintained between the properties at first floor level.
13. Whilst each case must be considered on its own merits the appellant's statement includes photographs of other properties on Sudbury Court Road showing two story side extensions with broadly similar characteristics. I do not, therefore, find that the lack of a set back to the extent advised at first floor level within SPD2 would on this occasion warrant refusal. The proposal would be consistent with the overarching SPD2 objectives which are to create extensions which present as subservient, prevent a terracing effect and are appropriate to the character of the area.
14. The third refusal reason is specific to the front extension as a result of creation of a front porch. The SPD2 notes that front extensions, such as porches, linked to front bays, garages or front extensions to garages are not generally permitted unless they are predominant within the character of the area. I note that there are similarly designed front extensions in the vicinity, including 59 Sudbury Court Road which is not dissimilar in design in terms of its relationship with the front bay window. Despite this it is not comparable to the appeal proposal before me as it is of a more limited width, not extending across the front of a proposed side extension. Similarly the front porch at 63 Sudbury Court Road is of a notably more modest scale than that before me. Each case must be considered on its own merits.
15. The principle of a front porch/extension is likely to be acceptable due to the presence of porches within the character of the area but what would be acceptable comes down to design. As noted above permission ref: 20/1635 granted permission for a front porch extension but I have no details of this, such as the approved plans, before me to be able to attribute this weight. The proposed front extension and porch would have a total width of 6.15m and would join onto the front bay window and extend across the front of the proposed side extension.

¹ Drawing ref SUDB-P-005 shows a set down of 0.9m on the front and rear elevations, however, proposed side elevation shows an incorrect set out of 0.2m

16. The front extension before me would in this case fail to be a subordinate feature due to being in excess of half the width of the original house. I find that this would be detrimental to the character of the host dwelling, which would essentially be lost when combined with the other elements of the proposal wrapping around, and result in a disproportionate and bulky addition to the front elevation at ground floor level. I do not find that the pattern of development, nor the use of external materials to match the host building, would overcome the overall width and bulk proposed which results in the negative impact I have found.
17. The proposal would be contrary to LP Policy DMP1 which requires development to complement the locality and would be contrary to the guidance contained within SPD2 with regard to residential extensions. The proposal would be contrary to Framework 2021 which confirms, in paragraph 134, that significant weight should be placed upon supplementary planning documents.

Other Matters

18. I note the appellant's personal statement attached as appendix A. A lack of objection from neighbouring occupiers is a neutral consideration. Matters as to how the Council have managed the application process, and any post decision engagement with regard to amendments, do not fall within the scope of this appeal. The family circumstances of the appellant are noted; however, the appeal is determined against the Local Plan as a starting point in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004 and such circumstances do not change the outcome in this case where other material considerations are decisive.
19. Reference to the Framework is noted in that it seeks to approve applications for sustainable development where possible. The presumption in favour of sustainable development is at the heart of the Framework but does not, however, change statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted as set out in paragraph 12 of the Framework.

Conclusion

20. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR