



Appeal Decision

Site visit made on 7 July 2022

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2022

Appeal Ref: APP/T5150/D/22/3296886

9 Dicey Avenue, Brent, London, NW2 6AR

- 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 Salim against the decision of the London Borough of Brent Council.
 - The application Ref 22/0380 dated 7 February 2022, was refused by notice dated 5 April 2022.
 - The development proposed is erection of a part single and part two storey rear extension and enlargement of rear dormer.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a part single and part two storey rear extension and enlargement of rear dormer at 9 Dicey Avenue, Brent, London, NW2 6AR in accordance with the terms of the application ref: 22/0380 dated 7 February 2022, subject to the following conditions:
 - 1) The development to which this permission relates must be begun not later than the expiration of three years, beginning with the date of this decision;
 - 2) The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted material details and following approved plans: location plan (9DA/OS), proposed ground floor (9DA/01), proposed first floor (9DA/02), proposed loft floor (9DA/03), proposed elevations (9DA/05) and proposed roof floor (9DA/06).
 - 3) The materials used in development hereby permitted shall match those of the existing dwelling unless details are submitted to, and approved in writing by, the Local Authority.

Procedural Matters

2. This appeal is accompanied by an application for costs. This has been determined within a separate decision.

Main Issue

3. The main issue is the impact of the ground floor rear extension upon the residential amenity of adjoining occupiers at 7 Dicey Avenue with regard to loss of light, outlook and increased sense of enclosure.

Reasons

4. There are several elements to the appeal proposal as outlined in the development description. The Council's delegated report confirms that the enlargement of the rear dormer and the two storey rear extension are acceptable and comply with Brent's Supplementary Planning Document 2: Residential Extensions and Alterations 2018 (SPD2). I have no evidence before me to conclude differently. In that regard this appeal will focus upon the ground floor rear extension and its potential impact upon 7 Dicey Avenue (no. 7) as specifically named within the refusal reason stated as well as taking into account any relevant material considerations.
5. The appeal site is a two-storey semi-detached dwelling location on Dicey Avenue within a residential area. It currently benefits from a small single storey extension to the rear which would be replaced in the event the appeal proposal is allowed. The proposed single storey rear extension would be the full width of the host building at a height of 3m with a depth of 6m. No. 7 does not have a rear extension and the proposal, at ground floor level, would project 6m from the rear wall of the host building immediately against the shared boundary. The SPD2 guidance is noted to state that the maximum depth of single storey rear extensions normally permitted, for semi-detached houses, is 3m from the wall of the house. Extensions up to 6m in depth may be acceptable subject to set in from the boundary as outlined.
6. The proposal would be contrary to this guidance due to the lack of set in from the boundary beyond 3m in depth. I find that the depth of the ground floor extension would likely result in a loss of light and outlook, as well as an increased sense of enclosure, for the neighbouring occupants at no. 7. Despite this the impact upon the neighbouring occupants, as a result of this appeal proposal, would be the exactly the same as if the already certified/approved ground floor extension (discussed below) was constructed. This is a material consideration.
7. The submissions before me confirm that the rear (single storey) extension element of this appeal proposal has been considered lawful under application reference 22/0154 which granted a Certificate of Lawfulness. I also note an application prior to this confirming prior approval was not required for a 6m extension under reference 20/2069. In that regard the appellant could lawfully construct the ground floor element of this appeal proposal, upon which the refusal reason is based, without further permission or control from the Council. I note that the ground floor extension has not been constructed but I still find that it creates a viable fallback position which is a material consideration.
8. The appellant has first taken steps to certify the ground floor element which I find demonstrates clear intent to extend the property in question to provide additional living space. The appellant could reasonably construct the ground floor element, which has remained unchanged in terms of dimensions as a proposal within all three applications to date, and then subsequently apply for permission for the first floor element and dormer enlargement. The latter have been considered as acceptable in the Council's assessment. As outlined the impact upon the neighbours, as a result of this appeal proposal, would be the same as the already certified/approved ground floor extension which could be constructed. It is evident to me that if this appeal was allowed this would be the route the appellant would follow resulting in the same proposal before me

being constructed in a phased manner, rather than in one go, as noted by the appellant's agent.

9. There is a greater than theoretical weight that the fallback development might take place (i.e. the real prospect test) and I attribute this strong weight. The appellant has taken clear steps to certify/seek approval for the ground floor element prior to this application which I find is strong evidence to demonstrate intent. The Council has not stated conflict with any Local Plan policies which would be the starting point for determination in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004. Based upon the evidence before me whilst the proposal would be contrary to the SPD2 guidance as outlined in this case I find there are material considerations that support a departure from such guidance as being justifiable based upon the aforementioned fallback position.

Conditions

10. The Council have suggested three standard conditions in their questionnaire which I have applied. A time condition is attached to comply with section 51 of the Planning and Compulsory Purchase Act 2004. A condition requiring the development to be in accordance with the approved plans is required to control and define the development which is granted consent. A materials condition is required to ensure the proposal matches the host dwelling and that any deviations in materials from existing are approved by the Council to ensure an appropriate finish.

Conclusion

11. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Eleni Randle

INSPECTOR