



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: 19TH August 2022

Appeal Ref: APP/T5150/D/22/3299999

56 Kingsmere Park, London, NW9 8PL

- 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 Harry Dhariwal against the decision of the London Borough of Brent Council.
 - The application Ref 22/0832 dated 3 March 2022, was refused by notice dated 20 May 2022.
 - The development proposed is demolition of existing storage and utility and erection of part single storey and part two storey side to rear extension, hip to gable end roof extension with rear dormer window, one rear rooflight and replacement of front door 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 I also undertook a site visit as part of the determination of a second appeal at adjoining property 54 Kingsmere Park (APP/T5150/D/22/3295012). Each case is to be considered on its own merits. The appeals are the subject of separate decisions and I have determined the proposals based upon the statement of case and evidence which is before me. I have, however, referred to the appeal at the adjoining property in so far as it forms a key part of the appellant's statement of case and due to the fact details have been submitted as part of this appeal as an appendix to that statement.
4. The Council's report raises concern with regard to the accuracy of the plans submitted with regard to garden levels and presence of steps/a patio area. The appellant has submitted revised plans in appendix F. I have, on this occasion, taken these revised plans into account as they seek to clarify a matter and do not seek to advance or evolve the scheme determined by the Council. No parties would be prejudiced by the acceptance of the plans in question.

Main Issue

5. The main issue is the impact of the proposal upon the residential amenity of 54 Kingsmere Park (no. 54) with regard to loss of light, outlook and overbearing effect.

Reasons

6. The appeal site is a two-storey, semi-detached, dwelling. There are several elements to the appeal proposal, as outlined in the development description, and the Council's report confirms that the demolition of the existing garage, construction of the two storey side extension, hip to gable end roof extension with rear dormer window and replacement front door would all be acceptable. I have no evidence before me to conclude differently on these elements.
7. The appellant has submitted images within appendix B of their statement demonstrating the nature of the surrounding area, however, the Council's refusal reasons do not raise impact on the wider street scene, the wider area nor the character of the host dwelling itself. The refusal reasons are based upon the ground floor rear extension and first floor rear extension only with specific regard to the residential amenity of the occupants of no. 54. This is the main issue that this appeal will focus upon for the avoidance of doubt.
8. The Residential Extensions and Alterations 2018 (SPD2) generally allows single storey rear extensions on semi-detached houses of up to 3m in depth from the existing rear building line of neighbouring properties. Up to 6m in depth may be acceptable where the extension is set in from the side by 1m for every 1m of additional depth. Roof heights should not exceed 3m for a flat roof. The proposed single storey rear extension would project 4m to the rear of the host dwelling, with a 2.9m flat roof height, with no set in from the boundary so would exceed the SPD2 guidance by 1m.
9. The appellant has submitted details from an approval at 7 Kingsmere Park (18/3804), however, in that case the proposed rear extension (also 4m in depth) would only have protruded past the adjoining neighbours extension by 1m. In the case before me no. 54 (the adjoining property) has not been extended to the rear along the boundary and thus the extension would protrude a full 4m beyond the rear elevation, along the boundary with no set in, exceeding the SPD2 guidance. The cases are materially different. No. 2 Kingsmere Park is also referenced in the submissions, however, no further details are before me.
10. I find that the single storey extension would impact upon the outlook available to occupiers of no. 54 from habitable room windows and the garden as well as result in overbearing impact as a result of the proposed depth. It would impact upon the basic ability of occupiers to look outwards a reasonable distance and would be dominating along the boundary fence. Given the orientation of the site I have no evidence before me to conclude that this element would result in a loss of light that would warrant refusal and the Council have made no provision for assessment of this point which has been included in the refusal reason.
11. I note the garden sizes submitted by the appellant but the impact of the proposed single storey extension would be at its greatest in the amenity area immediately outside the rear of the neighbouring dwelling which is commonly the most heavily utilised area of private amenity space. Outlook is not, I find, simply restricted to views straight down a garden from within a property and the proposal would result in a sense of enclosure along one side which would be overbearing.

12. SPD2 generally allows two storey rear extensions where they comply with the 1:2 rule in respect of the nearest first floor habitable room windows on neighbouring properties, to a maximum depth of 3m. The two storey rear extension would have a depth of 3m (an increase from 2.15m compared to the existing two storey extension) and would be set 5.3m from the middle of the nearest habitable room at no. 54. Applying the 2:1 rule it would allow for an extension depth of 2.65m so the proposal exceeds this by 0.35m.
13. I do not find that this modest projection above the guidance of the 1:2 rule would result in an impact upon outlook at first floor level for the occupiers of no. 54 nor an overbearing impact to warrant refusal in this case. The proposal also does not breach the 45-degree line which, whilst this is separate to the 1:2 rule, combined with orientation of the properties further supports acceptable impact upon neighbouring occupiers in terms of light.
14. As noted above, in procedural matters, I have also determined an appeal at adjoining no. 54 which is also within the appellant's ownership. The schemes are submitted as separate applications and separate appeals though the appellant has re-submitted details of the case at no. 54 as an appendix to their statement within this appeal. The appellant submits that if the scheme within APP/T5150/D/22/3295012 was allowed it would result in no harm to either property. It is for this reason I reference this case.
15. I have found the neighbouring scheme, APP/T5150/D/22/3295012, to be unacceptable with regard to the impact upon no. 56 but also the design of the roof form and that appeal has been dismissed. This means therefore that both developments are unable to be constructed to overcome harm as suggested within the submissions in this appeal.
16. Even if I had not found issue with the roof form within the adjoining scheme there is no mechanism, such as a legal agreement or similar, to ensure that the schemes would be constructed at the same time to ensure impact on the respective properties is avoided.
17. The starting point for determination of this proposal is the Local Plan in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004. The National Planning Policy Framework 2021, whilst a consideration, does not change this point and there are no material considerations which indicate otherwise. The proposal is not one falling for assessment in the context of a tilted balance, however, sustainable development has three elements which should all be met with the elements not being considered in isolation. The issues I have found, with regard to residential amenity, would result in failure to represent sustainable development as good design is a key element which creates better places in which to live.
18. The depth of the ground floor element at 4m along the boundary with no. 54 which has not been extended would result in an unacceptable impact upon residential amenity. The proposal would not be consistent with LP Policy DMP1 as far as it seeks to deliver high quality design which ensures high levels of internal and external amenity, LP Policy BD1 which seeks to achieve new development that is of the highest architectural and urban design quality and which enhance local character or the guidance within SPD2 with regard to single storey rear extensions.

Other Matters

19. The compliance of some elements of the proposal with both the SPD2 guidance and LP policies is noted, however, this does not outweigh the impact to residential amenity or design concerns which have been identified. Extension of a dwelling, adding significant size, is unlikely to assist with supporting affordable or realistic accommodation as a single residential dwelling. The proposal would not contribute to housing supply given that the proposal would result in extension to an existing dwelling, not additional housing supply as a single residential dwelling.
20. Comments have been submitted as to a lack of engagement from the Council during the application process in order to try and find a positive outcome, however, this is outside the scope of this appeal and there is no application for costs before me.

Conclusion

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

Eleni Randle

INSPECTOR