



Appeal Decision

Site visit made on 27 July 2022

by **G Robbie BA(Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 November 2022

Appeal Ref: APP/N5090/C/21/3282332

25 Dunstan Road, London NW11 8AG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
- The appeal is made by Mr R Asaria against an enforcement notice issued by London Borough of Barnet.
- The notice, numbered ENF/0393/21, was issued on 30 July 2021.
- The breach of planning control as alleged in the notice is without planning permission the erection of a first floor rear extension, shown edged in red on attached Photograph 01.
- The requirements of the notice are to:
 - 1) Demolish the first floor rear extension.
 - 2) Permanently remove all constituent materials resulting from the works in 1. above from the property.
- The period for compliance with the requirements is:
4 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Formal Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a first floor rear extension at 25 Dunstan Road, London NW11 8AG as shown on the plan attached to the notice, and subject to the conditions set out below:
 - 1) The roof of the extension hereby permitted shall only be used in connection with the repair and maintenance of the building and shall at no time be converted to or used as a balcony, roof garden or similar amenity or sitting out area.
 - 2) The existing glass balustrade across the doors on the rear elevation of the extension hereby approved shall be permanently retained.

Preliminary Matters

2. The notice initially described the matters which appeared to the Council to constitute the breach of planning control as *'without planning permission the erection of a first floor rear extension, shown edged in red on attached Photograph 01'*. Whilst the inclusion of the descriptor and cross-reference to the content of photograph 01 in the alleged breach is useful it does not amount

to development and so I have omitted it from the development description in the planning permission granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The appeal on Ground (a)

Main Issues

3. The main issues are the effects of the first-floor rear extension upon;
 - The character and appearance of the appeal property and the surrounding area; and
 - The living conditions of occupiers of 27 Dunstan Road, with particular regard to outlook.

Reasons

Character and appearance

4. Although the houses along Dunstan Road are broadly similar in their scale and appearance, there are subtle variations along the street and between the pairs of semi-detached properties. The appeal property and the neighbouring properties on either side of it are typical of this general pattern.
5. The same is also true at the rear. The appeal property has previously been altered and extended at the rear at both ground floor and roof level but it presents a mix of differing dormer window, rear extension and outrigger features to those on either side of it. Setting aside the first-floor extension which the notice seeks to attack, the property has a contemporary appearance at the rear due to its mix of substantially glazed elevations and smooth rendered walls and flat roofed design.
6. The previous partly flat-roofed ground floor extension essentially wraps around what the Council understand to be an original two storey rear projection. I have no reason to doubt this conclusion. As a consequence, at its deepest point it extends a significant cumulative distance from the main rear wall of the house. It is this element of the building upon which the first-floor extension that is the subject of this appeal lies.
7. However, the first-floor extension as built is inset from the rear and side elevations of the ground floor extension. It is also inset from the side elevations of the original two storey projection, whilst its flat roof design also ensures that it is clearly viewed and understood as subordinate to the gabled end of that projection. The first-floor extension's more modest proportions are also reinforced by the significant projecting ground floor flat roof.
8. Although the Council contend that the cumulative depth of the extended first floor and the original two storey projection would be incongruous, I do not share those concerns. I accept that it extends beyond the extended first floor element of the neighbouring property at No 23 and indeed, possibly others further along the street in either direction. However, the wide variety of rear elevation treatments and build outs, whether extensions or original, renders the concept of a consistent building line redundant.
9. Nor does the incorporation of a flat roof necessarily render the extension at odds with the prevailing character or appearance of either the host building or

the surrounding area. Whilst the Council contend that a flat roof conflicts with the guidance set out in the Council's 'Supplementary Planning Document: Residential Design Guidance' (SPD) (2013), the quoted paragraph merely states that such a design 'will not *normally* [my emphasis] be appropriate'.

10. In this instance, the first-floor extension is a modest addition on the end of an existing and original extension. Together with other previous extensions and alterations, the rear of the appeal property has, in my judgement, a well-considered, proportionate and contemporary appearance with consistent design cues throughout which neither harms the character nor appearance of either the host property or those around it.
11. Both parties refer to an extension at the rear of No. 23, the appellant describing it as 'box like' and that its presence means that it forms part of the immediate character and appearance of the surrounding area. The Council, in response, state that it is an outlier in terms of its design and appearance and, together with its planning history, should not be taken to be characteristic of the surrounding area. However, as there is no consistent form of rear extension amongst properties comprising this rear garden block, the extension at the appeal property is neither incongruous nor unsympathetic in this respect. Nor, for the reasons I have set out, do I consider it to be a disproportionate addition to the rear of the appeal property.
12. Policy DM01 of 'Barnet's Local Plan (Development Management Policies)' (2012) (DMP) and the SPD, together with Policies CS1 and CS5 'Barnet's Local Plan (Core Strategy)' (2012) (CS), set out the Council's approach to protecting the Borough's character and amenity. London Plan policy D3 also sets out broad principles for a design-led approach to development proposals and schemes. Collectively, and amongst other things, these policies advocate that respect be given to appearance, scale, mass and height of surrounding buildings. For these reasons, I am satisfied that the first-floor extension at the appeal property is not at odds with the aims and principles set out and there would be no conflict with DMP policy DM01, CS Policies CS1 or CS5 or London Plan policy D3, or with the provisions and guidance of the SPD.

Living conditions

13. The Council's concern regarding the extension's effect on the living conditions of occupiers of adjacent properties is limited to that of the other half of the semi-detached building; No 27. The appeal property and No. 27 are not a symmetrical pair of properties. Whereas No. 25 has an original rearward two-storey projection, No. 27 does not, instead having one on the front elevation. Both however have similarly proportioned ground floor extension elements either side of the rear garden fence.
14. Whilst the cumulative depth of the original projection and the first-floor extension would be in the region of 8.1 metres, as set out by the Council, the flank elevation is heavily articulated by the insets and set-back from the perimeter of the ground floor extension upon which it is built. Moreover, it is on the opposite side of the appeal property's rear elevation and in the region of between 3.5 metres (the Council) and 3.65 metres (the appellant) from the fence separating the two properties.
15. Whichever figure is ultimately closer to the distance between these two reference points, the outlook from the rear of No. 27 is otherwise open and

south facing. Although there are mature trees at the foot of the gardens, the presence of the first-floor extension does not render the outlook from the rear of No. 27 oppressive, or the extension overbearing, dominant or enclosing in those views. There is, I conclude, no harm arising in terms of the effect of the extension on the living conditions of occupiers of No. 27 in this respect.

16. For these reasons, I am satisfied that the first-floor extension does not result in an overbearing, enclosing or otherwise deleterious effect on the outlook from, or living conditions of occupiers of, No. 27. As a consequence, there is no conflict with DMP policy DM01, CS Policies CS1 or CS5 or London Plan policy D3, or with the provisions and guidance of the SPD or the Sustainable Design and Construction SPD (2016).

Other Matters

17. Although it did not constitute a reason for issuing the notice, concerns regarding overlooking have been raised by a third party. There are, I accept, windows on the side-facing elevation of the extension that faces towards the adjoining half of the pair of semi-detached houses. However, as described above there is a reasonable inset from the extension's flank and windows, and the rear, and rear garden, of No. 27. There is already, almost inevitably within a street of semi-detached dwellings, a degree of inter-visibility between properties. In this instance, that is compounded by subtle variations in form and layout of properties along the street.
18. The effect of the extension on privacy and over-looking was not a stated reason for the issuing of the notice. I am not, for the reasons I have set out, persuaded that the extension would result in an unacceptable or excessive level of intervisibility between the appeal property and its neighbours. I have carefully considered the concerns expressed by the third party, but this does not alter my conclusion with regard to the effect upon living conditions.

Conditions

19. The Council have suggested two conditions, the first of which seeks to prohibit the use of the extension's flat roof as a balcony, roof garden, amenity space or sitting out area whilst the second seeks to retain the glass balustrade in front of the rear elevation doors.
20. Although I have found no harm arising in terms of the effect of the extension upon the living conditions of occupiers of No. 27, I accept that its flat roof could be used for the purposes feared by the Council, whilst the rear doors would, without retention of the balustrade, provide ready access to the roof area for the purposes anticipated by the Council. Given the relationship of the extension with the neighbouring properties and the potential point of access from it to the roof I find the suggested conditions to be both reasonable and necessary.

Conclusion

21. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall therefore grant planning permission for the development as described in the notice. The appeal on ground (g) does not therefore fall to be considered.

G Robbie INSPECTOR