
Appeal Decisions

Site visit made on 11 November 2022

by K E Down MA(Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2022

Appeal A Ref: APP/Y5420/D/21/3289124

7 Church Road, Highgate, London, N6 4QH

- 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 Ms Samantha Lehel against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2021/2628, dated 20 July 2021, was refused by notice dated 26 November 2021.
 - The development proposed is erection of a two-storey extension at ground and first floor level and excavation at basement level to create additional living-home working space.
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Appeal B Ref: APP/Y5420/D/21/3289118

7 Church Road, Highgate, London, N6 4QH

- 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 Ms Samantha Lehel against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2021/2629, dated 20 July 2021, was refused by notice dated 26 November 2021.
 - The development proposed is erection of a single storey extension at ground floor level and excavation at basement level to create additional living space.
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Decisions

Appeal A Ref: APP/Y5420/D/21/3289124

1. The appeal is dismissed.

Appeal B Ref: APP/Y5420/D/21/3289118

2. The appeal is allowed and planning permission is granted for the erection of a single storey extension at ground floor level and excavation at basement level to create additional living space at 7 Church Road, Highgate, London, N6 4QH in accordance with the terms of the application Ref. HGY/2021/2629 dated 20 July 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
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- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1030-CYA-A1-: 00-DR-A-00003 A; 00-DR-A-00103 B; 0R-DR-A-00004 A; 0R-DR-A-00104 B; B1-DR-A-00002 A; B1-DR-A-00102 B; XX-DR-A-00001 A; ZZ-DR-A-00005 A; ZZ-DR-A-00006 A; ZZ-DR-A-00007 A; ZZ-DR-A-00105 B; ZZ-DR-A-00106 B; ZZ-DR-A-00107 B.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) No ground excavation shall take place at the site until a scheme for the protection of the retained trees to the south-west of the site (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

Procedural matter

3. As set out above there are two appeals on this site. They differ only in respect of Appeal A including a first floor extension above the ground floor extension. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

Main issues

4. There are three main issues. Firstly, in respect of both Appeal A and Appeal B, the effect of the proposed extensions on the living conditions of occupiers of the appeal dwelling with respect to amenity space, light, outlook and privacy; secondly, in respect of Appeal A, the effect of the proposed extensions on the living conditions of occupiers of 3 & 5 Church Road and 7 Bramalea Close with respect to outlook, privacy and light; and thirdly, in respect of both Appeal A and Appeal B, the effect on trees on land adjoining the site.

Reasons

5. The appeal property lies within the Highgate Conservation Area. It is a modern dwelling of contemporary design. It has been carefully designed to utilise the limited space available whilst minimising the impact on adjacent properties. Its wider impact is limited by its position, set back from the highway, and its single storey height. It has living areas above ground with two bedrooms in a basement. There is a detached garage on the south-west boundary. Two small areas of outside amenity space are provided at ground and below ground level in the southern corner of the site with a further lower amenity area between the dwelling and the garage. There is also a generous driveway which opens out in front of the dwelling.

Living conditions of occupiers of the appeal dwelling (Appeals A & B)

6. Both proposals result in new built development to the south-west of the existing conservatory, extending to the boundary. In Appeal A the development would

have two storeys plus a basement. I am satisfied that the first floor, despite having limited window openings, would receive adequate light due to the inclusion of a roof light. Outlook would also be adequate. However, at ground floor there would be a significant loss of glazing in the existing conservatory which currently receives afternoon sun. Whilst there would be additional glazing facing north-east, towards the open driveway, and north-west sunlight would be lost from the room, including the rear lounge section which is lit by a rooflight that is likely to become partially shaded by the first-floor extension. Overall, the main living room would thus lack natural light which would harm the living conditions of occupiers.

7. In Appeal B, the openings in the living area would be similar to Appeal A but a large rooflight would be incorporated into the roof of the extension. This, coupled with the existing rooflight continuing to receive light as at present, would lead to adequate illumination and a satisfactory living environment for occupiers.
8. Both proposals involve a small basement extension into the lower amenity area. This would result in the loss of a window to the existing bedroom. However, this window looks onto the blank wall of the amenity area and receives little or no direct sunlight due to the height of the boundary to the south-west. Moreover, it would be replaced by a floor to ceiling window in the north-west elevation, adjacent to an existing glazed door and facing towards the lower amenity area and the open driveway. This would ensure that the bedroom continued to receive adequate levels of light and outlook.
9. Both proposals would result in built development over the two upper outside amenity areas, leaving only the lower area and the driveway as outside space. Nevertheless, the two upper amenity areas are small and shaded by boundary fencing, the side wall of 7 Bramalea Close which lies to the south and a row of lime trees just beyond the south-west boundary. The upper level is also an awkward, narrow L-shape and provides access between the dwelling and the garage meaning that it has limited amenity value. The lower area due to its set down from ground levels, surrounding development, limited size, restricted outlook and shading is, in my view, an uninviting area.
10. Although the Council does not include the widened driveway of the dwelling as amenity space, I agree with the appellant that it could be used as such. Despite being overlooked from flats in No 5 and to a lesser extent No 3 Church Road it would not be materially less private than many gardens and amenity areas in urban developments and, being at ground level and facing the driveway, it would have an open aspect to the south-west and north-west. Whilst I do not agree that the full 42 sqm suggested by the appellant would be available, due to the need to access the garage and turning circle, I am satisfied that adequate space would be available to provide a comfortable amenity area for occupiers of the dwelling and, given the limited size of the dwelling, would be commensurate with other amenity spaces in the locality. It would therefore compensate for the loss of the existing amenity areas and comply with the outside private space standards set out in The London Plan (LP), 2021.
11. Loss of privacy for occupiers of the dwelling resulting from the extended glazing at ground floor would be minimal. Whilst there would be intervisibility between this glazing and upper windows in No 5, the angle of view would be limited and

separation distance sufficient such that, as a worst case, only a restricted part of the proposed living room extension, mainly close to the glazing, would be overlooked. This would provide an acceptable level of privacy for occupiers.

12. It is concluded on the first main issue that in the case of Appeal B the proposed extensions would have no materially harmful effect on the living conditions of occupiers with respect to amenity space, light, outlook and privacy. However, in respect of Appeal A, the proposed extensions would have a materially detrimental effect on the living conditions of occupiers with respect to light. This would be contrary to Policies DM1 and DM12 of the Development Management Policies DPD (DMP), 2017, and Policy SP11 of the Strategic Policies 2013-2026 (SP), 2013. Taken together, and amongst other things, these expect residential extensions to be of a high quality so as to provide appropriate levels of sunlight and daylight to all parts of the development. However, I find no conflict with Policies DH3 or DH4 of the Highgate Neighbourhood Plan (HNP), 2017.

Living conditions of neighbouring occupiers (Appeal A)

13. The existing dwelling, although designed to limit its impact on neighbouring properties, is nonetheless a dominant feature when viewed from the gardens and rear windows of Nos 3 and 5 and also from 7 Bramalea Close. The addition of a two-storey extension, albeit in front of the high blank side elevation of 7 Bramalea Close, would add to the prominence of the building when seen from upper rear windows in No 5 and No 3, bringing built development above ground floor noticeably closer to those properties. It would also be clearly seen from the garden of 7 Bramalea Close. In addition, the proposed window in the first-floor elevation facing rear gardens in Talbot Road would result in overlooking at close quarters of the garden of No 7 and also the garden at No 3, including a sitting out area behind the conservatory. Moreover, the position of the first-floor extension would also increase shading during the afternoon in the garden of No 7 which already receives limited sunlight. Gardens in Talbot Road would be a sufficient distant away not to be materially affected. Finally, I am satisfied that the design of the first-floor windows in the north-west elevation would not result in any material overlooking or loss of privacy to the dwellings or gardens at Nos 3 or 5.
14. It is concluded on the second main issue that the proposed two storey extension (Appeal A) would, due to its siting, design and scale be materially harmful to the living conditions of occupiers of neighbouring dwellings with respect to outlook, privacy and light. In consequence, it would conflict with Policies DM1 and DM12 of the DMP, Policy SP11 of the SP and Policy DH4 of the HNP. Taken together these expect residential extensions to be of a high standard of design such that they ensure a high standard of amenity for neighbours, including adequate outlook, privacy and light. However, I find no conflict with LP Policy HC1 which relates to heritage conservation.

Trees (Appeals A & B)

15. There are a number of lime trees close to the south-west boundary of the appeal site. They are located in a small embankment at the edge of a car park which has a permeable surface. They have amenity value in that they soften views from Church Road. The garage building, understood to have been constructed in 2017, lies adjacent to the boundary and close to the trees which

appear healthy. The proposed extension would also lie adjacent to the boundary and close to two young trees. However, I am not persuaded by the evidence that, in the absence of an arboricultural impact assessment, the risk of harm to the trees would be such as to justify dismissing the appeals. However, I do consider that, as suggested by the appellant, a planning condition requiring tree protection measures to be agreed before excavation close to the boundary is necessary and reasonable to ensure the long-term health of the trees.

16. It is concluded on the third main issue that the proposed extensions would have no materially detrimental effect on trees on land adjoining the site. In consequence, there would be no conflict with Policy DM1 of the DMP, LP Policy G7 or HNP Policy OS2 which, taken together, expect development proposals to respond to trees close to the site such that they are protected and retained whenever possible.

Conclusion (Appeal A)

17. For the reasons set out above and having regard to all other matters raised, including representations from neighbouring occupiers and The Highgate Society, I conclude that Appeal A should be dismissed.

Conclusion (Appeal B)

18. For the reasons set out above and having regard to all other matters raised, including representations from neighbouring occupiers and The Highgate Society, I conclude that Appeal B should be allowed.

Conditions (Appeal B)

19. In addition to the statutory commencement condition, I agree with the Council that conditions requiring the development to be carried out in accordance with the approved plans and in matching materials are necessary for certainty and to protect the character and appearance of the host dwelling and the local area. In addition, as set out above, I shall impose a condition requiring tree protection measures to be agreed prior to ground excavation taking place.

KE Down
INSPECTOR