



Appeal Decision

Site visit made on 14 November 2022

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 24 JANUARY 2023

Appeal Ref: APP/N5090/W/22/3298487

23 Orchard Drive, Edgware, Barnet HA8 7SE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Orenstein against the Council of the London Borough of Barnet.
 - The application Ref 22/0810/HSE, is dated 16 February 2022.
 - The development proposed is a two storey rear extension and conversion of roofspace to include 2 no. side dormers.
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Decision

1. The appeal is allowed and planning permission is granted for two storey rear extension and conversion of roofspace to include 2 no. side dormers at 23 Orchard Drive, Edgware, Barnet HA8 7SE in accordance with the terms of the application, Ref 22/0810/HSE, dated 16 February 2022 and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans, A349 01, A349 03 Rev H, A349 04 Rev G, A349 05 Rev C and A349 06 Rev 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) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows or doors other than those expressly authorised by this permission shall be constructed above ground floor level in the side elevations of the extension facing either 21 or 25 Orchard Drive.
 - 5) The extension hereby permitted shall not be occupied until the left hand half of the dormer window, when viewed externally, facing 25 Orchard Drive has been fitted with obscure glazing, and no part of that half of the window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. The glazing shall be permanently retained as such thereafter.
 - 6) The extension hereby permitted shall not be occupied until the new first floor bathroom window facing 25 Orchard Drive has been fitted with obscure glazing, and no part of the window that is less than 1.7 metres

above the floor of the room in which it is installed shall be capable of being opened. The glazing shall be permanently retained as such thereafter.

Preliminary Matters

2. Various amended plans were submitted to the Council during the planning application process. The Council and the appellant have confirmed the plans that are submitted as part of this appeal and to which I will have due regard. Whilst interested parties may not have been consulted on all of the amended plans during the processing of the planning application, I am satisfied that they have been consulted on them as part of the appeal and therefore no party is prejudiced by me having regard to them.
3. I note that an interested party invited me to visit their property as part of the site visit. During my site visit I was satisfied that I could properly judge the effect of the proposals from within the appeal site as I could view the identified features of concern in relation to the neighbouring dwellings highlighted by both interested parties. Therefore, it was not necessary for me to enter the neighbouring property.

Background and Main Issues

4. The Council did not issue a decision within the prescribed period or within an agreed extension of time period. The appellant exercised their right to appeal against the failure of the Council, as the local planning authority, to determine the application.
5. A statement has been submitted by the Council in response to the appeal and this concludes that had the Council determined the application, it would have refused it due to concerns regarding the effect of the proposal on the character and appearance of the existing dwelling and the surrounding area and the effect on the living conditions of occupiers of 21 and 25 Orchard Drive with regard to privacy.
6. Having regard to the evidence submitted by all parties, including local residents, I consider that the main issues are the effect of the proposal on:
 - the character and appearance of the existing dwelling and the surrounding area;
 - the living conditions of the occupiers of 21 and 25 Orchard Drive with regard to privacy.

Reasons

Character and appearance

7. The appeal site comprises a two storey detached dwelling with projecting first floor gable feature located on the front elevation, sitting in front of a hipped crown roof. There are a variety of different dwelling designs and types within the surrounding area which are harmonised by the use of a consistent palette of materials. A number of dwellings within the surrounding area have dormer windows and rooflights, located in the rear, side and front elevations.
8. The proposed extensions to the rear would be significantly screened by the built form of the existing dwelling when viewed from the road, given that the

proposed extension at first floor level is set in from both side elevations and is set down from the overall ridge height. The extension would respond to the proportions of the existing dwelling and would appear subordinate. It would not give the impression of a terracing effect given the retention of void space to either side. The proposed dormer window to the right hand side of the proposed extension may be glimpsed from the road but given the set back within the site, would not be overly prominent.

9. The most noticeable change to the existing dwelling when viewed from the road would be the proposed dormer window located on the left hand side of the existing roof and the rooflight proposed in the front elevation. The proposed left hand side dormer would be set back from the front elevation, would be lower than the ridge height of the existing dwelling and set into the roof meaning that it wouldn't be overly prominent in the street scene. The proposed front rooflight is limited in size and is positioned in the hipped roof to the rear of the projecting front gable feature. Both the dormer window and rooflight would be in keeping with other similar built form features that are present in the surrounding area.
10. The proposed projecting first floor rear gable feature, whilst not representative of other rear elevations of neighbouring properties, it would reflect the characteristics of the existing dwelling. In addition, given it would be subordinate in scale and has been designed to include features present in the existing dwelling, it would not appear overbearing or incongruous in relation to the existing dwelling. The single storey element of the proposed rear extension would continue at the depth of the existing projection, and the proposed first floor element would be limited in depth and set in from both side elevations of the existing dwelling, meaning that the existing roof form would still be visible and read as such.
11. I therefore conclude that the proposal would not result in a harmful effect on the character and appearance of the existing dwelling or the surrounding area and therefore accords with policies CS1 and CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document September 2012 (CS), Policy DM01 of Barnet's Local Plan (Development Management Policies) Development Plan Document September 2012 (DMP), Policy D3 of The London Plan 2021 (TLP) and the overarching aim of the Local Plan Supplementary Planning Document: Residential Design Guidance October 2016 (SPD) which seek, amongst other things, that development proposals respond to existing character and local distinctiveness.

Living conditions

12. Glazing in the proposed dormer window located in the existing roof is limited to half the width of the dormer and would serve a room identified as an office/bedroom 5. Given that the window would face directly towards the roofscape of No 25, it would not directly overlook private rear outdoor space or windows in the side elevation of that property. However, oblique views from the edge of the window towards the rear garden area of No 25 could give at least the perception of overlooking. This could be overcome by the imposition of a condition requiring an obscure glazing scheme that would cover the left hand half of the window, closest to the rear garden area to prevent any real or perceived overlooking. The dormer window located in the proposed rear extension would face towards the side of the roof of No 21 and given its

position in the roofscape would not create issues of direct overlooking towards the private rear garden space or any clear glazed windows in the side elevation of No 21.

13. I note the stepped nature of the rear elevations of the existing dwelling and neighbouring dwellings currently. Whilst the extension would extend the two storey part of the dwelling further back into the site, three existing first floor windows would be replaced by two first floor windows and one window in the gable end of the roof. All proposed windows above ground floor in the rear elevation are set in from the side elevation of the existing dwelling and would have direct views across the rear garden of the appeal site. The level of resultant overlooking from the rear elevation of the extended dwelling would be in keeping with the existing character of the suburban area and would not result in a material loss of privacy to occupiers of adjacent properties.
14. I therefore conclude that the proposal would not result in a harmful effect on the living conditions of the occupiers of 21 or 25 Orchard Drive with regard to privacy. The proposal therefore accords with policies CS1 and CS5 of the CS, Policy DM01 of the DMP, Policy D3 of TLP and the overarching aim of the SPD which seek amongst other things to respect local context and to deliver appropriate outlook, privacy and amenity.

Other Matters

15. Interested parties have raised concerns about the effect of the proposal on outlook, sunlight and daylight in respect of the neighbouring properties, 21 and 25 Orchard Drive. Windows in the rear elevation of No 25 along with the external space directly adjacent to the rear elevation already have views of the two storey side elevation of the existing dwelling. The additional built form at first floor level would be set in from the rear building line of the single storey element, closer to the existing two storey rear elevation. The proposed first floor element would also be set in from the side elevations of the existing dwelling, meaning that built form above ground floor level is stepped back and away from the side boundary. This arrangement would limit the additional impact on the outlooks from the occupiers of No 25 and would not create an unacceptable overbearing impact or sense of enclosure.
16. Given the stepped nature of the rear elevations and that the proposed extension is limited in depth so that it does not protrude beyond the rear building line of the two storey rear elevation of No 21, the effect on outlook from windows in the rear elevation and the rear garden area of No 21 would be limited. The existing ground floor window in the side elevation of No 21 would largely align with the single storey element of the proposed extension. Whilst the proposed extension would add to the built form viewed from this window, the existing close boarded fence already obstructs the outlook from that window and the additional built form set back from that boundary would not have an unacceptable impact. A narrow obscure glazed window is situated at first floor level in the side elevation of No 21, but due to it being obscure glazed and of limited size the impact on this window in terms of outlook would not be significant.
17. Given the direction of the sun, it is likely that the proposed extension would cast a further shadow towards the rear elevation of No 25 towards the end of the day. However, whilst this change maybe noticeable, having regard to the relative scale and position of the extended appeal dwelling and No 25, the

result would not be adversely detrimental to either levels of daylight or sunlight.

18. With regard to the ground floor window at No 21, as stated, this would largely align with the single storey element of the proposed extension which is set off from the boundary beyond the existing close boarded fence. Given the movement of the sun, the separation from the boundary and the height of the proposed extension in closest proximity to this window, it would not result in an unacceptable loss of sunlight or daylight to this window. With regard to the first floor window in the side elevation of No 21, it is a narrow obscure glazed window which is confirmed as serving a bathroom by the interested party. Given the location of this window, the existing obscuration of it and the room it serves, it is not considered that any loss of sunlight or daylight to it would be significantly or materially detrimental to the living conditions of the occupiers of No 21.
19. Whilst I appreciate that a similar rear extension has not been constructed within the immediate vicinity of the site, this does not mean that a different type of extension is not acceptable, and each case must be considered on its individual merits. I also note that other extensions and alterations may have been carried out to the existing dwelling in the past and that pre-application advice was requested from the Council, but this does not preclude future alterations from being proposed through new planning applications and the proposal would not represent overdevelopment of the site.
20. The impact of the construction phase is also highlighted as a concern by interested parties in terms of the timeframe for the works, the loss of access to the side passageway and garden space and security considerations if the boundary fence is removed to facilitate the proposed development. These are private matters that would need to be resolved between the parties. With regard to the effect of noise, dust and vibrations during the construction phase, these impacts would only be temporary and are unlikely to be significant or prolonged given the nature and scale of the proposal.
21. Interested parties have also raised the risk of structural disturbance and instability as a result of the construction works. However, there is no evidence to suggest that this is likely or that the risks are significant. A concern has also been raised regarding costs relating to the need for party wall surveyors. The Party Wall Act is a separate matter, and the procedures and requirements in this regard are independent of the planning process.

Conditions

22. I have considered the conditions suggested by the Council. I have imposed a condition requiring that the development is carried out in accordance with the approved plans in the interests of certainty. A condition requiring matching materials to be used is required in the interests of the satisfactory appearance of the development. The Council has suggested a condition restricting the insertion of windows and doors in the side elevations of the extension facing the neighbouring properties No 21 and No 25 without planning permission. I agree that this is necessary to assess the effect of any potential further alterations on the living conditions of occupiers of neighbouring properties in the future. A condition is therefore imposed in this regard.

23. The Council has also suggested that obscure glazing is used above ground floor level in all proposed windows in the side elevations. As set out above, I agree with regard to the proposed bathroom window at first floor level and that the left hand half of the dormer window, when viewed externally, facing No 25 would require obscure glazing with limited opportunities for opening but do not consider that the impact from the proposed dormer window facing No 21 would be significant enough to warrant the requirement of obscure glazing. I have therefore imposed conditions that reflect this.

Conclusion

24. For the reasons given above and having had regard to the development plan as a whole, the appeal is allowed and planning permission is granted subject to the conditions stated above.

G Dring

INSPECTOR