



Appeal Decision

Site visit made on 16 January 2023

by Chris Couper BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd February 2023

Appeal Ref: APP/T5150/D/3312343

35 Sudbury Court Road, Harrow, Brent HA1 3SD

- 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 Vinod Chopra against the decision of the Council of the London Borough of Brent.
 - The application Ref 22/2018, dated 6 June 2022, was refused by notice dated 9 September 2022.
 - The development proposed is described as 'retention of changes to rear basement extension and host property including front and rear elevations. Proposed part ground floor rear extension (part retrospective).'
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Decision

1. The appeal is allowed and planning permission is granted for changes to the rear basement extension and to the host property's front and rear elevations; and a part ground floor rear extension at 35 Sudbury Court Road, Harrow, Brent HA1 3SD in accordance with the terms of the application, Ref 22/2018, dated 6 June 2022, subject to the following conditions:
 1. The development hereby permitted shall be carried out in accordance with the following approved plans: drawing nos. 202205/35SCR/GFR/S1, S2, 02a, 02b, 04a, and 04b.
 2. 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.
 3. No access shall be provided to the rearmost part of the ground floor roof beyond the barrier as depicted on drawing no 202205/35SCR/GFR/02a, and no part of the roof beyond that barrier shall be used as a balcony, terrace or sitting out area.

Procedural Matters and Background

2. The appeal property has a long planning history. I noted on my visit that building works to it are ongoing. Consequently, whilst the scheme is described as partly retrospective, I have dealt with the appeal scheme as a proposal, rather than as the retention of the existing development.
3. The Council's objection, as set out in its decision and its delegated report, relates to the scheme's roof form. Consequently, whilst I have also considered a representation by a neighbour, that is the focus of my decision, and I have framed the main issue accordingly.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the host property and the area.

Reasons

Character and appearance

5. The properties along this part of Sudbury Court Road are predominantly two storeys high and detached, but, partly due to alterations and extensions, are varied in terms of their style, proportions and materials. Most have a principally hipped roofed form, although some also have substantial rectilinear dormers, and some have gables. There is also a modern flat-roofed four storey apartment block nearby at Antilia Court.
6. Amongst other things, the Brent Residential Extensions and Alterations Supplementary Planning Document No 2 (2018) ('SPD') sets out that roof alterations should complement the host and the original street character, but that the conversion of a hipped roof to a gable is generally acceptable. It continues that rear dormers can be the full width of the original roof plane, but that they should be set down from the ridge by at least 0.3 metre, and up from the eaves by at least 0.5 metre.
7. As illustrated by drawing no. 202205/35SCR/GFR/03, the host originally had a fairly simple hipped roofed form. As a result of this scheme, that would change with the resultant property having a steeper roof pitch to one side, a gable to the other, and a rectilinear dormer over the extended roof to the rear.
8. Consequently, its roof level bulk would significantly increase. According to the Council, the rear dormer would fall just short of the above dimensions in the SPD, but it would also clearly extend beyond the original roof plane. As the north-western face of the dormer would not be set in from the roof edge, that elevation in particular would have an unalleviated rectilinear form.
9. Those impacts would be visible in the streetscene, particularly when approaching the site along Sudbury Court Road from the south-west. However, given the diversity of nearby properties, and that the scheme would be faced in matching materials, the harm caused would be limited.
10. For the above reasons, the roof alterations as a whole would have a rather domineering impact, which would not entirely complement the host property. They would cause modest harm to the character and appearance of it, and to the immediate area.
11. There would therefore be a limited conflict with the advice in the SPD, and with Brent Local Plan 2019 - 2041 (2022) Policies DMP1 and BD1 which, amongst other things, require good urban design, and state that development will be acceptable if its scale, detailing and design provide a high level of external amenity and complements the locality.

Other matters

12. The neighbour at 33 Sudbury Court Road ('No 33'), states that his boundary wall and fence have had to be underpinned as a result of development on the appeal site. However, I have no substantive evidence of what has occurred, nor that this matter is not covered by separate legal rights.

13. Whilst I observed a fence along the common boundary with No 33, which steps up as the ground rises, that feature is not depicted on the submitted drawings, and it does not appear to be any part of the scheme before me.
14. In support of his proposal, the appellant refers to a Certificate of Lawfulness granted under section 192 of the Town and Country Planning Act 1990 for a proposed hip to gable loft conversion with rear dormer window and the insertion of three front rooflights at the property (Ref: 20/1293) ('CoL').
15. The Council points out that the works that have been carried out are not in accordance with the CoL, and that the original roof would need to be restored in order for the property to benefit from permitted development rights. However, in my view, given the existence of the CoL, and that building works are ongoing, notwithstanding the financial distress it would cause, I have no cogent reason to doubt that there is a greater than theoretical possibility that the CoL development would take place should the appeal be dismissed.
16. Having regard to the CoL drawing nos. 202004/LCSW/35SCR/02 and 04, whilst there are modest differences between that roof and the roof in the appeal scheme, such as the increased depth of the proposed dormer, the overall visual impact would be much the same. That fall-back would therefore have a similar impact on the character and appearance of the host property and the area compared to the scheme before me.

Conclusion and Conditions

17. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan, unless material considerations indicate otherwise.
18. In this case, I have found that the scheme would cause modest harm to the character and appearance of the host property and the area, contrary to the development plan.
19. However, compared to it, the fallback would result in a similar level of harm. This is a material consideration which carries significant weight in my decision, and provides sufficient justification to grant planning permission other than in accordance with the development plan in this particular case.
20. Turning to the matter of conditions, I have considered those suggested by the Council against the tests in the National Planning Policy Framework. However, as a start has already been made on the development, the time limit for commencement is unnecessary. In the interests of certainty, and as the development is under construction, I have however imposed a condition requiring that it be carried out in accordance with the approved plans. For the sake of clarity, my condition refers only to the proposed drawings.
21. In the interests of good design, a matching materials condition is also necessary.
22. Finally, the Council has suggested a condition to prevent the rear part of the roof, beyond the barrier on drawing no. 202205/35SCR/GFR/02a, from being used as an outdoor amenity area. Given the elevated views that there would be from there back towards the rear face of No 33, I agree that such a condition is necessary to prevent a harmful degree of overlooking.

23. For the above reasons, and having regard to all other matters raised, the appeal is allowed.

Chris Couper

INSPECTOR