
Appeal Decisions

Site visit made on 28 February 2023

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2023

Appeal Refs: APP/N5090/C/22/3295961 and APP/N5090/C/22/3296209 23 Sunny Gardens Road, London NW4 1SL

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr E Fogel and Mrs S Fogel against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The enforcement notice was issued on 17 February 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a single storey rear extension with rooflight.
 - The requirements of the notice are:
 1. Either:
 - a) demolish the single storey rear extension with rooflight and restore the property to the state in which it was prior to the breach as per drawings 100 Rev 01 (Pre-Existing Ground, First and Loft Floor Layout) and 110 Rev 01 (Pre-Existing Elevations) submitted under application reference Figure 1 – Rear elevation of appeal site. Red edging indicates the single storey rear extension alleged in the notice. 21/6418/HSE or;
 - b) make the development comply with the terms of planning permission reference 20/4298/HSE dated 18.11.2020, by modifying the development to match the scheme shown on plan numbers EZSG 1653 Rev B, EZSG 1670 Rev B, EZSG 2601 Rev B, and EZSG 2602 Rev B.
 - The period for compliance with the requirements is 2 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.
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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 construction of a single storey rear extension with rooflight at 23 Sunny Gardens Road, London NW4 1SL referred to in the notice.

Appeal on ground (a), the deemed planning application (DPA)

Main Issues

2. The main issues are the effect of the development upon:
 - The character and appearance of the host building and area; and
 - The living conditions for the neighbouring occupiers of No 25 Sunny Gardens Road, with particular regard to light and outlook.

Reasons

Character and appearance

3. The appeal property is a two storey Victorian mid-terraced property, with an original two storey back addition, which has been extended with a rear dormer roof extension. More recently the property has been extended with a single storey rear extension with a rooflight (the subject of this appeal). Properties in the street generally benefit from reasonable sized rear gardens.
4. The unauthorised development exceeds 3m in depth, and therefore is not strictly in accordance with Barnet's Local Plan Supplementary Planning Document Residential Design Guidance, 2016 (Design SPD). Nevertheless, the design of the single storey rear extension, finished in render and timber cladding on the rear elevation, together with its modest flat roof design ensures that the development remains subservient to the host property. Furthermore, the extension does not occupy a disproportionate area of the large rear garden. In these respects, the development maintains the character and appearance of the building and area.
5. I also observed that there were similar sized ground floor extensions in the area. Whilst I appreciate some of these would have built under permitted development legislation and therefore their planning merits would not have been assessed against the Council's development plan and SPD, these developments nevertheless form part of the existing character and appearance of the area. Furthermore, owing to its position to the rear of the property, ensures that it is not harmful to the street scene.
6. I therefore conclude that the development preserves the character and appearance of the host building and area. It would therefore be in accordance with Policy CS5 of the Barnet's Local Plan Core Strategy DPD, 2012 (CS), Policy DM01 of the Barnet Local Plan Development Management Policies DPD, 2012 (DPD), the Design SPD, and Policy D3 of the London Plan, 2021 (London Plan). Amongst other things, these seek to ensure that development is of high quality design; that extensions should be compatible with the scale and character of existing development, and that single storey rear need to ensure that they do not look too bulky and prominent compared to the size of the main building and garden to which they relate.

Living conditions for the occupiers at 25 Sunny Gardens Road - light and outlook

7. The Design SPD advises that *"single storey rear extensions to the original house, need to ensure that the depth and/or height of the extension does not cause a significant sense of enclosure, or loss of outlook from, or light to, principal windows of habitable rooms of neighbouring properties."*
8. The flat roof design of the single storey rear extension ensures that the overall height of the development is not excessive. Furthermore, the two storey back additions in the terrace are relatively narrow and therefore the space between the existing back addition at No 25 and the rear extension of No 23 is relatively wide. This openness in this part of the rear garden ensures that the unauthorised development does not appear overly dominant when viewed from No 25, nor result in any harmful loss of light, overshadowing, or outlook, to the neighbouring occupiers of No 25.

9. I also note that a prior notification application has recently been approved for a single storey rear extension at No 25. This approval is extant and if implemented would result in an extension, similar in depth and scale to the appeal development, albeit with a slightly reduced width.
10. I therefore conclude that the development does not have a harmful effect in relation to light and outlook, for the occupiers of No 25 Sunny Gardens. In this respect, the development complies with Policies DM01 and DM02 of the DPD, the Design SPD, and Policies D3 and D6 of the London Plan. Amongst other things, these state that development proposals should be designed to allow for adequate daylight, sunlight, privacy, and outlook for adjoining and potential occupiers, whilst minimising overshadowing and maximising the usability of outside amenity space.

Other Matters

11. Comments made by third parties have been taken into account but do not alter the conclusions reached in this decision. No conditions have been suggested by the Council and as the development appears to be completed, there is no need for any.

Conclusions

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

R Satheesan

INSPECTOR