

Appeal Decision

Site visit made on 3 April 2023

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL

an Inspector appointed by the Secretary of State

Decision date: 26 July 2023.

Appeal Reference: APP/M5450/D/23/3316573

Land at 51 Howberry Road, Edgware HA8 6SX

- 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 H. Gandhi against the decision of Harrow Council.
 - The application (reference P/2020/22, dated 26 May 2022) was refused by notice dated 24 January 2023.
 - The development proposed is described in the application form as "*proposed single storey front infill extension, garage conversion and changes to front elevation, single storey rear extension and raised patio*".
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Decision

1. The appeal is allowed and planning permission is granted for "*proposed single storey front infill extension, garage conversion and changes to front elevation, single storey rear extension and raised patio*", at 51 Howberry Road, Edgware HA8 6SX, in accordance with the terms of the application (reference P/2020/22, dated 26 May 2022), subject to the conditions set out in the attached Schedule of Conditions.

Procedural matter

2. Since the development which is the subject of this appeal has already been carried out, in large part, the application is to be treated as one made under Section 73A of the Town and Country Planning Act 1990.

Preliminary points

3. The local planning authority has not submitted a formal Questionnaire in this appeal. After a considerable delay, however, they have submitted copies of drawings and planning policies on which their decision was based and which have been considered in this appeal.

Main issue

4. The main issue to be determined in this appeal is the effect of the proposed development on the residential amenities of neighbours (whether unacceptable harm would be caused by overbearing appearance or intrusion on privacy).

Reasons

5. The appeal site is located in a densely built up part of Harrow, in north London, which is characterised by extensive residential areas. In the vicinity of the appeal site the houses are ranged along a roughly rectilinear network of roads with verges and footpaths as well as small roundabouts at intersections. Typically, houses are laid out as semi-detached pairs, set back from the highway and often with parking spaces on the frontages. There are some trees in the highways although there is limited space for trees generally and, overall, the locality has a rather hard townscape character.
6. Number 51 Howberry Road is a semi-detached house (with number 49) constructed of brickwork under a main tiled roof. It has previously been altered and extended up to its side boundary with number 53, creating, effectively, a short terrace. The front part of the plot has been surfaced to create a parking area. At the rear, the modest back garden is dominated by a solidly built outbuilding that occupies a significant part of the garden area.
7. Various alterations and extensions have recently been carried out to the property, including an extension and raised patio at the rear of the house. Planning permission had previously been granted for a rear extension but the extension as built is larger than that for which planning permission had been granted. The raised patio is an addition to the approved scheme.
8. The rear extension and patio had not been completely finished at the time of the site visit but had been the subject of a new planning application seeking to regularise the revised scheme (with a new set of drawings). That application is the subject of the current appeal and other elements of the proposals are not contentious.
9. The 'National Planning Policy Framework' emphasises the aim of "achieving well designed places" in the broadest sense (notably at Section 12), while making effective use of land and encouraging economic activity. It is aimed at achieving good design standards generally, by adding to the overall quality of the area and being visually attractive and sympathetic to local character and history, although it is also recognised that appropriate change may include increased densities. The achievement of good design includes protecting existing residential amenities and providing good standards of accommodation.
10. Policies in the Development Plan also share these basic principles. In particular, Policy D3 of 'The London Plan' (dated March 2021) promotes a "design-led approach" to development and identifies some important design criteria, including the need to "deliver appropriate outlook, privacy and amenity". Similarly, Policy DM1 of the 'Harrow Development Management Policies Local Plan' (dated 2013) is aimed at achieving a high standard of development and it includes specific provisions to protect the privacy and amenity of neighbouring occupiers.
11. The Council's 'Supplementary Planning Document: Residential Design Guide' (which was adopted in December 2010) is also relevant but it does not have the force of the statutory Development Plan.
12. It has been pointed out that the extension as built is both deeper and higher on the boundary with number 49 than the approved scheme. The increase in

height is modest, however, while the increase in depth is very small. It appears that the original design had failed to take account of the actual ground level and that there was a discrepancy in the setting out of the building. I accept that the increase in size has been inadvertent.

13. The construction of the rear extension is acceptable in principle, as the previous planning permission also demonstrates, and I am convinced that the increase in size of the flank wall on the boundary with number 49 does not have an undue impact on the outlook from the neighbouring property, bearing in mind the urban context. Nor does it materially affect the daylight or sunlight available to the neighbouring property, especially in view of the westerly to south-westerly orientation of the rear elevation. The change from the approved scheme is not such that a refusal of planning permission for the revised extension would be justified.
14. Turning to a consideration of the raised patio, it is acknowledged that the original planning permission did not include this feature. In reality, a raised patio has been constructed to create a sitting area that is at a similar level to the ground floor of the house (and the new extension). The patio makes use of attractive polished slabs but it has not been laid out entirely in accordance with the application drawings, since a wide "planter", alongside the boundary with number 49, has been omitted.
15. The raised patio does give an opportunity for overlooking the neighbour's garden and is intrusive and unacceptable in its present form for that reason. Nevertheless, it has been submitted that this objection could be overcome by the imposition of conditions requiring improved boundary treatment combined with additional screening and planting.
16. I accept that this approach would be sufficient to overcome the objection. The new "planter" would need to be constructed in accordance with the approved plan and a planting scheme for it (including mature plants) would need to be designed and implemented. In addition, a new screening feature would need to be designed and constructed within the appeal site and including a new fence on part, at least, of the boundary. All this could be achieved by the imposition of suitable conditions, however.
17. It has also been suggested in the appeal statement that the raised patio could be removed altogether (as an alternative) and I accept that this could also have been achieved by the imposition of a condition, in the circumstances. Even so, I am not persuaded that such a requirement would be necessary or reasonable. A raised patio set away from the boundary would not overlook the neighbour and the remedy can be achieved by other means. A patio at the level of the new lounge/dining space has obvious benefits to the household, moreover.
18. In relation to number 53 Howberry Road, the extension and raised patio would be set well apart from the side boundary and these elements have no undue impact on the amenities that the neighbours could reasonably expect to enjoy.
19. The new design must be considered on its own merits, but the existence of the previous permission is an important material consideration in the appeal. In any case, the scheme would not cause unacceptable harm to neighbours' amenities, in planning terms, either by intruding on the outlook from their

properties by reason of overbearing appearance or by creating an intrusion on their privacy.

20. Evidently, the appeal site lies within an established urban area, which is "sustainable" in planning terms, and the proposed extension would be a useful addition to the accommodation at Number 51 Howberry Road. I have concluded that the project would not be in conflict with the Development Plan, in principle, and that the objections to the scheme which have been raised can be overcome by the imposition of suitable conditions. In short, I am persuaded that the scheme before me can properly be permitted subject to conditions and, although I have considered all the matters that have been raised in the representations, I have found nothing to cause me to alter my decision.
21. In imposing conditions, I have concluded that standard conditions are necessary, for the avoidance of doubt, to define the planning permission and the materials to be used. A commencement condition is not necessary, however, since the work has already been started. Other conditions deal with matters identified elsewhere in this Decision.

Roger C. Shrimplin

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following approved drawings:
 - drawing number MD4077/EXT-01/SP (Block Plan and Location Plan);
 - drawing number MD4077/EXT-02/SP (Existing Ground Floor Plan);
 - drawing number MD4077/EXT-03/SP (Existing Elevations);
 - drawing number MD4077/EXT-04/SP (Proposed Ground Floor Plan);
 - drawing number MD4077/EXT-05/SP (Proposed Elevations).
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. The single storey rear extension and raised patio that are hereby permitted shall not be occupied unless and until a scheme for the screening of the raised patio has been submitted to and approved in writing by the local planning authority and the approved scheme has been fully completed. The scheme shall include completion of the planters as shown on drawing number MD4077/EXT-04/SP, the planting schedule for the planter alongside the boundary with number 49 Howberry Road, the boundary treatment and any further screening.
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 further modifications to the screening scheme shall be made without the express prior written approval of the local planning authority.
5. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives prior written consent to any variation.