



Appeal Decision

Site visit made on 5 September 2023

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th September 2023

Appeal Ref: APP/M5450/D/23/3318569

92 Cavendish Avenue, Harrow HA1 3RQ

- 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 & Mrs Andrzej Bielinski against the decision of London Borough of Harrow.
 - The application Ref P/3890/22, dated 11 November 2022, was refused by notice dated 6 January 2023.
 - The development proposed is demolition of the existing rear and side extensions including garage and construction of a new rear and side extension at ground floor with pitched roof and roof lights over, also a rear extension at first floor for additional bedroom accommodation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellants have indicated that, in the event that I am minded to dismiss the appeal proposal as originally submitted, they would be agreeable to an alternative scheme being considered. The appeal submission therefore includes plans, elevations and a revised Design & Access Statement in relation to this alternative scheme.
3. The alternative scheme is fundamentally different to that considered by the Council, and interested parties have not had an opportunity to comment on this alternative scheme. Having regard to the Wheatcroft principles and procedural guidance¹, I conclude that it would not be fair or reasonable to determine the appeal against the amended plans, as to do so would prejudice interested parties. As such I have determined the appeal against the plan as originally submitted and considered the Council when it made its decision.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the host property and the area; and
 - the effect of the proposal on the living conditions of the occupiers of number 94 Cavendish Avenue (number 94) with regard to daylight, sunlight and outlook.

¹ Planning Inspectorate Procedural Guide: Planning Appeals – England (updated 13 September 2023)

Reasons

Character and appearance

5. The houses on Cavendish Avenue mostly comprise of 1930's, semi-detached properties, relatively closely spaced with front gardens and driveways, and larger rear gardens. The typical architectural style includes elements such as hipped roofs, two storey bay windows, overhanging eaves and the use of brick and render to the external finish.
6. On my site visit I observed that a number of properties in the locality have been extended and altered in ways that have somewhat eroded the original aesthetics of the street scene, including the appeal property which has extended the roof through a hipped to gable enlargement. In addition, the appeal property has a large flat roof rear dormer extension built up to the ridge and side wall, which creates the visual appearance of a three-storey rear extension when viewed from the street.
7. The proposed single storey side and rear extension would replace existing side and rear extensions at the appeal property, and would have a hipped roof design that is in keeping with the surrounding character of the area, improving the appearance of the property when viewed from the street. It is acknowledged that the proposed single storey extensions would be larger than the existing extensions they will replace, particularly at the rear of the property. Nevertheless, the appeal site has a long rear garden which can accommodate this single storey rear extension and still retain sufficient outdoor amenity space. The rear element of the single storey extension would not be prominently viewed and thus the single storey extensions would not represent incongruous and disproportionate additions that would be harmful to the character and appearance of the host property or street scene in general.
8. The proposed first floor rear extension would project out from the existing first floor rear elevation, and would be situated above the aforementioned proposed ground floor rear extension. The proposed first floor extension would have a flat roof design that would be visible from the street due to its position above the single storey extension, as well as being visible from the rear gardens of neighbouring properties and the railway line that runs to the rear of the appeal site.
9. The Council's Supplementary Planning Document – Residential Design Guide (December 2010) (SPD) states that roof design is very important and it is desirable for first floor extensions to be roofed to reflect both the design and material of the existing roof. The proposed first floor extension would have a flat roof design, which whilst at odds with the original hipped roof design of the dwelling, would reflect the design and style of the dwelling as it currently exists on site as a result of the large flat roof dormer extensions at the rear, which dominate views of this property from both the front and rear.
10. Furthermore, I observed on site that the dwellings on Cavendish Avenue have an original, yet small, flat roof feature at the rear of the property at first floor level. Whilst what is proposed would be larger and more prominent than this original feature found on neighbouring properties, the flat roof design is not considered to be alien or out of keeping with the style of the area.

11. In view of the above, given the existing alterations that have taken place at both first floor and roof level at the appeal property, the modestly size flat roofed first floor rear extension is not considered to result in any greater level of visual harm to the host property or surrounding area.
12. For the reasons set out above, I conclude that the proposed development would not constitute an incongruous and disproportionate addition to the host dwelling and would not harm the character and appearance of the area. Accordingly, I find no conflict with Policy D3 of the London Plan (2021), Policy CS1 of the Harrow Core Strategy (2012) and Policy DM1 of the Harrow Council Development Management Policies (2013) insofar as they seek to ensure that extensions respect their host property and are not detrimental to local character and appearance. I also find no conflict with the Council's SPD, or those principles of the National Planning Policy Framework ('the Framework') that seek good design which is sympathetic to the local area.

Living conditions of neighbouring occupiers

13. The proposed single storey rear extension would be set up to the shared boundary with the properties either side of the appeal site. The Council's SPD states that the acceptable depth of single storey rear extensions will be determined by the need for consistency with permitted development and other issues including site considerations; the scale of the development; and the impact on the amenity of neighbouring residents.
14. The rearward projection of the proposed single storey extension would significantly exceed that allowed under permitted development rights and thus the impact on neighbouring amenity must be carefully considered in accordance with the requirements of the SPD.
15. The adjoining property at number 94 has an existing single storey rear extension and the proposed single storey rear extension would extend significantly further than this neighbouring extension. This projection, along with the height of the proposed single storey extension, would result in an overbearing impact and loss of outlook, when viewed from the existing rear extension at number 94, as well as within the rear garden and patio area adjacent to the proposed extension.
16. Due to the orientation of the appeal site in relation to this neighbour, the single storey rear extension would also result in significant levels of overshadowing through the loss of both sunlight and daylight to the rear elevation of this property, and the outdoor amenity space directly to the rear of this neighbour. The impact on sunlight received would be particularly harmful in the early part of the day when the sun rises in the east, and the impact would only be exacerbated by the proposed single storey rear extension being set directly up to the shared boundary.
17. It is acknowledged that there is currently an existing concrete panel fence along this shared boundary, and that the appeal property has an existing rear extension and Perspex covered area along this boundary that would be demolished. However, the proposed extension would be significantly higher than both the existing fence and covered area. Furthermore, the extension would also be of a more solid construction than the Perspex covered area, thus reducing the amount of light that can pass through, creating a more oppressive and overbearing feature along this shared boundary.

18. With regard to the neighbour on the opposite side at number 90 Cavendish Avenue, whilst the extension would also be set along the shared boundary, this neighbouring property has a detached outbuilding situated along the shared boundary and this would significantly screen the proposed single storey extension from this neighbouring property.
19. The proposed first floor extension would be set a sufficient distance away from both neighbouring properties on either side to ensure that the 45-degree splay between the properties is retained. As such the proposed first floor rear extension would share an acceptable relationship with neighbouring properties.
20. In view of the above, I conclude that the proposed single storey rear extension, by reason of its siting, scale and rearward projection, would have an undue impact on the living conditions of the occupiers of the neighbouring property at 94 Cavendish Avenue by way of overbearing impact, loss of outlook, and loss of daylight and sunlight. The proposal would therefore conflict with the requirement of Policy D3 of the London Plan, and Policy DM1 of the Harrow Council Development Management Policies that require development to be designed to provide appropriate levels of outlook and amenity, and have regard to any impact upon neighbouring occupiers.
21. The proposal is also considered contrary to the guidance contained within the Council's SPD, which states that development should not cause any unreasonable loss of light or overshadowing to any habitable rooms and kitchens in neighbouring properties, or to gardens, in particular to the area immediately to the rear of the house. Furthermore, the proposal is also considered contrary to paragraph 130(f) of the Framework, which seeks to ensure a high standard of amenity is provided for existing users.

Other Matters

22. The appellants have commented that the proposal achieves sustainable development as defined within the Framework, by providing additional living space for the current occupants of the dwelling, allowing them to adapt their home rather than having to move house. The appellants also contend that the proposal will create jobs for local builders and workmen, and the increase in property value creates a potential rise in the council tax payable. Furthermore, the appellants state that the proposal makes extremely effective use of land within the curtilage of the dwellinghouse, and these are all benefits that should be given weight and consideration in the decision-making process.
23. In response to the above, the Framework is clear that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. I have found that the appeal proposal conflicts with the development plan and the benefits outlined by the appellants are not sufficient to outweigh the significant detrimental effect upon the neighbouring occupiers living conditions, and therefore do not lead me to determine the appeal other than in accordance with the development plan.
24. Furthermore, I consider that the benefits raised by the appellants are not exclusive to the development as proposed, and these benefits could all still be achieved through a development that accords with the relevant policies of the development plan.

Conclusion

25. The appeal scheme would have a detrimental impact upon the living conditions of the occupiers of the neighbouring property at 94 Cavendish Avenue. The proposal is therefore contrary to the development plan and there are no material considerations that outweigh this finding, or the conflict with the development plan when taken as a whole. As such, the proposal is unacceptable, and the appeal should be dismissed.

R Major

INSPECTOR