



## Appeal Decision

Site visit made on 4 September 2023

**by R Major BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 28 September 2023**

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**Appeal Ref: APP/T5150/W/23/3318898**

**58C & 60 Anson Road, Brent, London NW2 6AD**

- 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 Ms Kimia Zabihyan against the decision of London Borough of Brent.
- The application Ref 22/4105, dated 1 December 2022, was refused by notice dated 2 February 2023.
- The development proposed is single storey side extension at 60 Anson Road. Conversion of Flat#3(2B-3P) into (2B-4P) larger flat. Provision of light well for existing Studio#2 and Flat#3. Changes to fenestration and addition of window. Single storey infill and rear extension at Flat-C, 58 Anson Road. Conversion of (2B-4P Flat) into (3B-5P Flat). A combined application for '60 Anson Road' and 'Flat-C 58 Anson Road'

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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The site address in the application form states "58C Anson Road, Brent, London NW2 6AD". However, this is a joint appeal for extensions at both 58C and 60 Anson Road, and thus in the interest of clarity I have amended the address in the banner head.
3. The description of development in the banner head is taken from the application form. However, the description used on the decision notice and appeal form is "A joint planning application for a single storey side extension to Flat 3, 60 Anson Road and a single storey side and rear extension to 58C Anson Road, provision of lightwells for existing flats 2 and 3, and alteration to fenestration". I consider this to be a more accurate and clearer description of the appeal proposal and have determined the appeal on this basis.

### Main Issues

4. The main issues are:
  - the effect of the proposed development upon the living conditions of the occupiers of the neighbouring property at number 56 Anson Road, with regard to daylight, sunlight and outlook; and
  - the effect of the proposed development upon the living conditions of the occupiers of existing flats within the appeal site, notably Flat C (58 Anson Road), Flat 2 (60 Anson Road) and Flat 3 (60 Anson Road), with regard to daylight, sunlight and outlook.

## Reasons

5. The appeal relates to a joint planning application for single storey extensions at two mid-terrace properties on Anson Road, both of which are currently used as residential flats according to the submitted details. The proposed extensions would serve the ground floor flat (Flat C) at 58 Anson Road (number 58), and Flat 3 which is located at the ground floor of 60 Anson Road (number 60). The proposal also includes the provision of a lightwell for both Flat 2 and Flat 3 at number 60.
6. Both appeal properties, as well as the other terrace properties in this row, have an existing two storey outrigger shared with an adjoining neighbour, and these outriggers cover approximately half the width of the rear elevation. The outriggers are considered to be an original feature of the properties in this row.
7. In addition to the two storey outrigger, number 58 has an existing rear conservatory situated along the shared boundary with number 60. Number 60 has a flat roofed single storey side and rear extension which wraps around the existing two storey outrigger. This single storey extension is finished in a mixture of brick and white UPVC cladding, and provides additional accommodation for Flat 3.
8. The appeal properties, and neighbours, have rear gardens which are set at a lower level than the ground floor finish floor level of the properties.

### *Effect on living conditions of occupiers at No.56 Anson Road*

9. To the east of the appeal site, number 58 shares a boundary, and the two storey outrigger, with number 56 Anson Road (number 56). This neighbouring property at number 56 has a set of patio doors in the ground floor rear elevation of the outrigger and these lead out into the rear garden area that is accessed by three external downward steps. Immediately to the rear of the patio doors this neighbouring property has a flagged patio area containing a number of sets of outdoor tables and chairs, and this outside area is clearly used by the occupants of this dwelling. Beyond the patio area is a grassed garden area which is accessed via a single step down from the patio area. Along the shared boundary between numbers 56 and 58 is a concrete and timber fence, measuring approximately 2m high when taken from the level of the paved patio area.
10. The proposed single storey rear extension would project 3m out from the rear elevation of the existing outrigger, along the boundary shared with the neighbouring property at number 56, and would span across the full width of the garden so as to also be positioned along the shared boundary with number 60. The extension would have a flat roof design and includes a window closest to the boundary with number 56, and a set of bi-folding doors and steps down into the garden close to the boundary with number 60.
11. The proposed extension would measure 3.5m high to the flat roof when measured from the external ground level and therefore when viewed from the patio area of number 56 would stand approximately 1.5m above the existing boundary fence. The siting, height, design and bulk of this extension would have a detrimental impact upon the occupiers of number 56 by way of overbearing impact and loss of both sunlight and daylight, especially at the end of the day when the sun is setting in the west. The result of this is that the

enjoyment the occupiers of number 56 currently experience within their rear garden, but in particular on the patio area, would be significantly negatively impacted by the proposed extension.

12. In coming to this view I acknowledge that the Brent Residential Extensions and Alterations Supplementary Planning Document 2 (January 2018) (SPD) does generally permit rear extensions projecting 3m beyond an existing two storey outrigger along a shared boundary. However, the SPD also states that the maximum height permitted for a flat roof is 3m along the boundary.
13. In this case the neighbouring garden / patio is set at a lower level than the finish floor level of the buildings and therefore the extension measures 3.5m high when viewed and measured from this neighbouring garden and patio area, contrary to the guidance contained with the Council's SPD. As such, and even with a 3m projection, the proposed extension, as a result of its height and siting would be an overbearing feature when viewed from this neighbouring garden and patio area.
14. I also note that the SPD states that where the neighbouring house is set at a lower level, the depth of the extension may have to be reduced by a commensurate amount. I am aware that the neighbouring house at number 56 is not set at a lower level than the proposed extension, however the rear garden and patio area would be, as a result of the general topography of the area. As such, this section of the SPD is considered to be applicable in this case.
15. I have also had regard to the appellant's reference to an allowed appeal<sup>1</sup> for a 4m high extension elsewhere in the borough of Brent, however I am not aware of the site-specific circumstances of this appeal and each application must be judged on its own merits. Notwithstanding this, I note that the appeal referred to by the appellant pre-dates the adoption of both the Council's SPD and the adoption of the Brent Local Plan. I have therefore determined this appeal in accordance with the most up-to-date planning policies.
16. In respect of the impact of the proposed extension on the existing patio doors and the room they serve at the rear of number 56. As this room and patio doors are set at a higher level than the garden / patio area, the impact of the proposed extension on the outlook from this set of doors, and the room they serve, is not significant and the relationship is considered to be acceptable.
17. In view of the above, the proposed single storey extension would have an undue impact upon the living conditions of the occupiers of the neighbouring property at number 56, by way of overbearing impact and loss of daylight and sunlight, when using the outdoor patio area. The proposal is therefore considered to be contrary to Policy DMP1 of the Brent Local Plan (2019-2041) (BLP), which seeks to ensure development provides high levels of amenity, including issues such as outlook, lighting and shadowing. The proposal also conflicts with the guidance contained within the Brent Residential Extensions and Alterations SPD, which states that the maximum height for a flat roof extension is 3m on the boundary. The proposal is also considered to be contrary to paragraph 130(f) of the National Planning Policy Framework (the Framework) which seeks to ensure developments provide a high standard of amenity for existing users.

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<sup>1</sup> APP/T51150/D/17/3174577

*Effect on living conditions of occupiers at Flat 2 and Flat 3 within 60 Anson Road; and Flat 3C within 58 Anson Road*

18. Flat 2 is an existing flat situated to the rear of the existing property at 60 Anson Road. This flat is accessed via an internal door at ground floor level but is split over two levels, a lower ground floor and upper ground floor. The lower ground floor is accessed by a set of internal stairs down from the ground floor entrance and is predominantly situated below ground floor level. The lower ground floor is used as a bedroom and is served by a row of high level obscurely glazed windows in the north facing rear elevation. As a result of this, the outlook and daylight received in this bedroom is currently limited.
19. The upper ground floor of Flat 2 is also accessed by a set of stairs up from the ground floor entrance. This room is used as the main living area, and is served by a set of glazed doors and windows in the north facing rear elevation.
20. The proposed single storey extension to number 58 (Flat C), and in particular the proposed side extension to Flat 3 within number 60, would have a significant impact on the outlook and daylight received within Flat 2 as it would be surrounded by built development. The submitted plans show that a lightwell / courtyard area would be provided to serve this flat, however this lightwell would be enclosed by the existing and proposed extensions and would therefore receive an inadequate level of daylight and provide a substandard outlook. As such the only windows serving Flat 2 would be significantly and detrimentally impacted by the proposed extensions at both numbers 58 and 60.
21. Furthermore, the proposed lightwell would be shared with Flat 3 and therefore both properties would have habitable windows directly facing each other across this relatively confined area, raising issues of loss of privacy between the flats. The submitted plans do however show that a dividing screen or fence would be provided within the external area between these flats. Whilst acknowledged that such a feature would provide privacy between these windows and flats, it would only worsen the outlook from the windows in the rear of Flat 2.
22. Flat 3 is an existing ground floor flat that predominantly occupies the ground floor of the existing two storey outrigger at the rear of 60 Anson Road. The proposed single storey extension at number 60 would create additional space for this flat. However, one of the bedrooms would be served by an opening into the aforementioned lightwell / courtyard area. For similar reasons to those mentioned in respect of Flat 2, it is considered that occupiers of this bedroom within Flat 3 would be provided with an inadequate level of daylight and outlook from this lightwell due to its enclosed nature and the dividing screen.
23. Although not referenced in the reason for refusal, the officer report raises concerns in respect of the effect of the developments on the living conditions of occupiers of Flat C within 58 Anson Road. One of the existing bedrooms in this property is currently served by a set of patio doors that receives daylight and an outlook through the existing rear conservatory. The proposal seeks to demolish this conservatory and replace with a single storey infill extension. The proposal does include a small courtyard area and a window from this bedroom looking into this courtyard. Again, and for similar reasons to those mentioned above, it is considered that the outlook and daylight received in this bedroom from a small courtyard area would be inadequate.

24. I therefore conclude that the proposed development would not provide appropriate living conditions for the occupiers of Flat 2 and Flat 3 within 60 Anson Road, and Flat C within 58 Anson Road, with regard to daylight received and outlook from the windows serving habitable rooms in these flats. The proposal would therefore conflict with Policy DMP1 of the BLP, which seeks to ensure, amongst other things, that development provides high levels of amenity, including issues such as outlook, lighting and shadowing. 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 and future users.

### **Other Matters**

25. The appellant has made reference to two similar developments which have been granted planning permission by the Council on this street. I have however not been provided with any further details of these applications. Nevertheless, each application is judged on its own individual merits and on the site-specific circumstances.

### **Conclusion**

26. The appeal scheme would have a detrimental impact upon the living conditions of the occupiers of the neighbouring property at 56 Anson Road, as well as the living conditions of occupiers living within the appeal site itself, specifically Flats 2 & 3 at 60 Anson Road, and Flat C at 58 Anson Road. 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. The proposal is also considered to be contrary to the relevant sections of the Framework. As such, the proposal is unacceptable, and the appeal should be dismissed.

*R Major*

INSPECTOR