



Appeal Decisions

Site visit made on 13 November 2023

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2023

Ref: APP/T5150/W/23/3320916

Ground Floor Flat, 49 Elm Road, Wembley, London HA9 7JA

- 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 Loretta Coyne against the decision of the London Borough of Brent.
- The application Ref 23/0159, dated 17 January 2023, was refused by notice dated 14 March 2023.
- The development proposed is ground floor, single storey, rear infill extension.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. There is another appeal at No 49, 49A and 51 Elm Road (appeal ref: APP/T5150/W/23/3329274), for which I am the inspector, and for which the site visit was done on the same day. However, this appeal is separate and will have a separate decision and has no impact on the consideration of this appeal.
3. An amended plan and a Daylight/Sunlight Report have been submitted with the appeal. The amended plan shows more detail in respect of the walls and windows within the neighbouring property at No. 47 Elm Road and does not propose any alterations to the appeal proposal in comparison to the plans submitted with the planning application.
4. The Council, and interested parties, have had an opportunity to review and make comments on the submitted Daylight/Sunlight Report and the amended plan. As such, I do not consider that the Council, or other parties, would be prejudiced by my acceptance of these documents as part of the consideration of this appeal.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of the occupiers of 47 Elm Road, with particular regard to outlook, daylight and sunlight.

Reasons

6. The appeal relates to the ground floor flat, within a two-storey end terrace property, at 49 Elm Road (No. 49). The two-storey property currently has a two-storey extension spanning across the full width of its rear elevation and this two-storey extension projects 3m out from the original rear elevation of the property. Attached to the rear of the two-storey extension is a single storey flat roof rear extension which extends a further 3m out to the rear. However, whilst this single storey extension is set along the shared boundary with the

adjoining property at No 49A Elm Road, it does not span across the full width of the rear elevation and is therefore set in from the boundary with 47 Elm Road (No. 47).

7. The appeal proposal seeks to infill the rear corner with a single storey rear extension, resulting in the existing single storey flat roof rear extension being extended across the full width of the rear elevation. The proposed extension would project 3m out from the existing two-storey rear extension, taking the overall projection from the original rear elevation of the property to 6m at ground floor level.
8. The Council's Residential Extensions and Alterations SPD 2 (2018) (SPD) states that the maximum depth normally permitted for single storey rear extensions is 3m from the wall of the house. However, the SPD goes on to state that up to 6m may be acceptable provided that for every metre beyond 3m in depth the extension should be set in from the boundary by an additional metre to protect neighbouring residential amenity. The SPD however acknowledges that where neighbouring properties have differing building lines the depth of an extension may have to be reduced by a commensurate amount.
9. Including the existing two storey rear extension, the proposal would result in a total projection of 6m from the original rear elevation of the property, and in accordance with the advice contained within the SPD, the proposed extension should therefore be set 3m in from the neighbouring boundary with No. 47. However, because the original rear elevation of No. 47 is set slightly further back than the original rear elevation of the appeal property, given the guidance in the SPD it is justifiable to allow for this set back figure to be reduced by a commensurate amount.
10. Nevertheless, whilst the extension would be set in slightly from the shared boundary with No. 47, it is not considered to be sufficient and the proposed extension would introduce a substantial expanse of wall beyond the ground floor window and door in the original rear elevation of No. 47, which is set close to the shared boundary. Whilst I acknowledge that the door in the rear of No. 47 is obscurely glazed, the submitted evidence details that the windows directly to the side and above this door are clear glazed. Furthermore, the neighbouring property at No. 47 also has a clear glazed window in the ground floor side elevation of the existing outrigger that would directly face the side elevation of the proposed infill rear extension.
11. The proposal would therefore appear overbearing and create a sense of enclosure when viewed from both these windows, resulting in a loss of outlook that would be detrimental to the living conditions of the occupiers of No. 47. I have not been provided with details of the rooms these windows serve, and it was not obvious from my site visit, as such and on the evidence before me, I have no justifiable reason not to assume these are habitable rooms and windows.
12. I acknowledge the appellant's comments that the outlook from these existing windows / openings is already impacted by existing features, including the existing 2m high boundary fence, the existing extensions at the appeal site and the outrigger at No. 47.
13. I observed on site that the top heads of these windows are higher than the boundary fence and thus currently enjoy an outlook over the fence line. The

flat roof of the proposed extension however would be a significantly taller structure than the existing boundary fence and would be higher than the top heads of these windows. Furthermore, whilst existing extensions and the outrigger do currently have some impact on these windows, for the reasons detailed earlier the proposal would worsen the situation and the outlook from these windows and rooms would therefore be negatively impacted by the proposed development.

14. I note the Council has made reference to the guidance in the SPD in relation to extensions to outriggers when assessing the height of the proposed extension. However, as the proposal does not result in an extension to a two-storey outrigger I do not consider this guidance to be directly applicable in this case.
15. I also acknowledge that the height of the proposed extension would not exceed the guidance contained within the SPD for flat roof extensions, however this does not mitigate against the harm I have identified in respect of the excessive projection and overall massing resulting from the proposed extension in relation to the windows in the side and rear of No. 47.
16. In respect of daylight and sunlight, as part of the appeal the appellant has submitted a Daylight/Sunlight Report (the Report) which considers the impact of the proposal upon two ground floor (non-obscure) windows in the neighbouring property at No. 47. The Report was carried out in accordance with the Building Research Establishment (BRE) criteria, contained within the BRE 'Site layout planning for daylight and sunlight: a guide to good practice' (2022).
17. With regard to sunlight, the Report details that as the proposed extension would be situated to the north of the windows at No. 47 and thus an assessment of the Annual Probable Sunlight Hours was not required in this case.
18. In terms of daylight, the Report details how the Vertical Sky Component shows that the ratio of daylight reductions to the two windows would be 0.92 and 0.81, which is above the 0.8 BRE guidance, and this is largely because of the high window head heights which allow light to enter the back of these rooms, irrespective of the proposed extension.
19. As such, given the orientation of the proposed extension in relation to the ground floor windows to the side and rear of No. 47, and the findings of the Report, the proposal is unlikely to have an unacceptable impact on the levels of daylight and sunlight received by the windows to the side and rear of No 47.
20. The appellant has drawn my attention to a single storey extension that the Council has recently approved at 51 Elm Road¹ (No. 51). The appellant comments that the approved infill extension at No. 51 is broadly the same as the appeal proposal, albeit whilst acknowledging that the boundary and relationship with the neighbouring property are different. Nevertheless, the appellant contends that the Council has taken a different view when applying the guidance contained within the SPD in its assessment of this application.
21. I have not been provided with all the facts and details of the application at No.51, and each application must be judged on its own merits. Nevertheless, on the information and evidence before me I consider that these two proposals

¹ Council Ref: 23/0143

are materially different in terms of the relationship they share with the adjacent property.

22. Whilst it is not my role to re-assess the approved application at No. 51, from the details provided and my observations on site, 53 Elm Road (No. 53) has a much more open aspect at the rear of the property, in comparison to No 47. Furthermore, No. 47 has a side elevation window directly facing the current appeal proposal at a short separation distance, whereas No. 53 does not. As such, the two cases are not directly comparable and the Council's approval of the extension at No. 51 is therefore not determinative in my consideration of this appeal proposal.
23. 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 47 Elm Road by way of overbearing impact, creating a sense of enclosure and resulting in a loss of outlook. The proposal is therefore contrary to Policy DMP1 of the Brent Local Plan 2019-2041 (2022), which seeks to ensure that development is of a design, siting, layout and scale which provides high levels of amenity.
24. The proposal also conflicts with the guidance contained within the Brent Residential Extensions and Alterations SPD, which requires single storey rear extensions projecting beyond 3m in depth to be set in from the boundary by a commensurate amount. 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.

Other Matters

25. The appellant has made reference to the two-storey outrigger at No 47 projecting significantly further back than the rear elevation of the appeal property and the rear elevation of the proposed extension. This neighbouring outrigger is however an original feature of the dwelling and is set further away from the shared boundary than the proposed rear extension would be. Moreover, the appeal property does not have a window in the side elevation directly facing this neighbouring outrigger in the same way as No. 47 has a side window directly facing the proposed extension. As such the relationship between the existing outrigger and the appeal property is not the same as the relationship between the proposed extension and No. 47.
26. The appellant states that the existing ground floor flat at the appeal property has a gross internal floor area (GIA) of 45.8m², and this is 4.2m² below the space standards outlined in Policy D6 of the London Plan (2021). The proposed extension would increase the GIA to 52.2m², and thus exceed the space standards for a one bedroom two-person unit.
27. The appellant considers this, along with the improved connection to the rear garden area through enlarged glazed doors in the rear elevation of the proposed extension, to be benefits of the appeal proposal. The appellant also makes reference to Policy BH4 of the Brent Local Plan, suggesting that the improved quality of residential accommodation that the appeal proposal will provide, alongside the Public Transport Accessibility Level rating of 5, is supported by this policy.

28. With regard to these issues, Policy D6 of the London Plan relates to the minimum internal space standards for new dwellings. Policy BH4 of the Brent Local Plan relates to the delivery of additional self-contained dwellings through the more intensive and efficient use of sites. The proposed development does not result in the provision of any new units and thus these policies are not directly applicable to the appeal proposal.
29. In terms of the benefit arising from improved connection to the outdoor amenity space. Given that the existing property already has a set of glazed double doors leading out into the rear garden area, the benefit arising from the provision of a wider set of doors is negligible. Nevertheless, the increased floor area for the occupants is a benefit of the appeal proposal. However, these benefits do not override the harm I have identified that the proposed development would have upon the living conditions of the neighbouring occupiers and the conflict with the development plan.

Conclusion

30. The appeal scheme would have a detrimental impact upon the living conditions of the occupiers of the neighbouring property at 47 Elm 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. As such, the proposal is unacceptable, and the appeal should be dismissed.

R Major

INSPECTOR