



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: 18 December 2023

Ref: APP/T5150/W/23/3329274

First and Second Floor Flat at 49 Elm Road, 49A Elm Road and 51 Elm Road, Brent, Wembley 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 23/2003, dated 9 June 2023, was refused by notice dated 17 August 2023.
 - The development proposed is pitched roof over existing flat roof rear extensions, 3x new rear dormers with Juliet balconies, enlargement of first floor rear window to no. 49, 2x new front rooflights to no.51.
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Decision

1. The appeal is allowed and planning permission is granted for pitched roof over existing flat roof rear extensions, 3x new rear dormers with Juliet balconies, enlargement of first floor rear window to no. 49, 2x new front rooflights to no.51 at first and second floor flat at 49 Elm Road, 49A Elm Road and 51 Elm Road, Brent, Wembley HA9 7JA in accordance with the terms of the application, Ref 23/2003, dated 9 June 2023, subject to the following conditions:
 - 1) The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this permission.
 - 2) The development shall be carried out in accordance with the following approved plans:

0530-CTR.001; 0530-CTR.103; 0530-CTR.104; 0530-CTR.301;
0530-CTR.302; and 0530-CTR.401
 - 3) The materials to be used in the construction of the external surfaces on the development hereby approved shall match those used on the existing buildings.

Preliminary Matters

2. There is another appeal at Ground Floor Flat, 49 Elm Road (appeal ref: APP/T5150/W/23/3320916), 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. The description of development in the above banner heading and my formal decision is taken from the Decision Notice and the Appeal Form. This

description of development is different to that included on the application form, however this revised description was agreed by both parties prior to validation of the planning application.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupiers of numbers 47 and 53 Elm Road, with particular regard to outlook.

Reasons

5. The appeal relates to three adjoining terrace properties at 49, 49A and 51 Elm Road. Nos. 49A and 51 are two storey, mid-terrace dwellings with two storey rear extensions consisting of both flat and hipped roof elements. No. 49 is an end terrace property that has a flat roof two storey rear extension. No. 49 has been subdivided into two flats, with one flat located at ground floor, and the second flat occupying the first and second floor levels. This appeal relates to the flat at first and second floor levels within No. 49. In addition to the rear extensions, all three properties also have flat roof dormer extensions.
6. The Council's Officer report states that the proposed rear dormers at both No. 49 and 51 would appear similar to a two-storey rear extension when viewed from the first-floor windows in the rear elevation of the neighbouring properties at 47 Elm Road (No. 47) and 53 Elm Road (No.53). As such the Council have assessed the impact of the proposal on the adjacent windows of No 47 and No 53 in respect of the guidance relating to two storey rear extensions in the Council's Residential Extensions and Alterations SPD 2 (2018) (SPD).
7. In this regard the SPD states that the depth of a two-storey rear extension should be restricted to half the distance between the side wall of the extension and the middle of the nearest habitable room window in the neighbouring property.
8. The appellant does not agree that the above section of the SPD is applicable in this case because the proposed dormers are not two-storey rear extensions. I accept that the dormers are not two-storey rear extensions, and thus this guidance is not strictly applicable in this case. I consider that this section of the SPD can provide a useful guide in respect of assessing the potential impacts of the proposal on the adjacent windows in the properties either side. Nevertheless, the SPD is only a guide and does not take all other material considerations into account.
9. In respect of the relationship with No. 47, the proposed dormer would project 2.5m beyond the neighbouring window and thus in order to adhere to the guidance in the SPD, should be set 5m from the midpoint of the window. The Council has stated that the proposal would not comply with this guidance.
10. Whilst the proposed dormer would sit at a higher level than the window at No.47, due to the difference in house types the top of the window at No.47 sits above the eaves height of No. 49. This results in the dormer not being akin to a true two-storey extension when viewed from this window. Additionally, the dormer would be flat roofed and set a reasonable distance from this window.
11. In view of the above, and on the specific factors of the appeal site and its relationship with this neighbouring window. The proposed development would

not result in an undue level of harm upon the outlook enjoyed from the first floor window in the rear elevation of No. 47, when compared to the existing situation.

12. In respect of the impact of the proposed dormer at No. 51 on the bay window in the rear elevation of No. 53, again the Council has applied the SPD guidance in relation to two storey rear extensions and concluded that the proposal would breach this guidance.
13. The top of this window also sits slightly above the eaves height of No. 51 and therefore again whilst the dormer would sit at a higher level the impact is not the same as a two-storey extension, because of the flat roof design and the significant set in from the boundary.
14. Additionally, the bay window of No. 53 offers generous views directly to the rear of this property, especially on the opposite side to the proposed development. As such, and again on the specific factors of the appeal site and its relationship with this neighbouring window, the proposed development would not result in an unduly harmful impact upon the outlook enjoyed from the bay window situated in the rear elevation of No. 53.
15. In view of the above, and notwithstanding the guidance within the SPD, I conclude that the proposed development would not result in an unacceptable harmful impact upon the living conditions of the properties at No. 47 and 53 Elm Road, by way of loss of outlook from the adjacent windows in the respective rear elevations. The proposal therefore complies with 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.

Conditions

16. In addition to the standard time limit condition, I have attached a condition specifying the approved plans to provide certainty and a condition requiring matching materials to safeguard the character and appearance of the area.

Conclusion

17. For the reasons given above, the proposed development would accord with the development plan when taken as a whole and there are no material considerations that indicate it should be determined other than in accordance with it. I therefore conclude that the appeal should be allowed.

R Major

INSPECTOR