



Appeal Decision

Site visit made on 31 October 2023

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 December 2023

Appeal Ref: APP/N5090/W/23/3320608

12 Second Avenue, Hendon, Barnet, London NW4 2RN

- 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 David Silverman against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/4404/FUL, dated 31 August 2022, was refused by notice dated 7 November 2022.
 - The development proposed is a two storey rear extension.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have amended the description in the banner with the agreement of the appellant to that used by the Council. This is a more concise description of the proposed development than that on the application form.
3. There is dispute regarding the overall projection of the proposed rear extension between the parties. I have assessed the proposal on the submitted drawings and my observations on site.

Main Issue

4. The main issue is whether the proposal would affect the living conditions of existing occupants with of No 10, No 12 (basement flat) and No 14 Second Avenue with particular regards to natural light and outlook.

Reasons

5. The appeal premises is a four storey semi-detached dwelling and includes accommodation within the basement and dormer, and benefits from a three storey outrigger and patio to basement to the rear. The outrigger has a double height bay window to the inner side elevation, set within the basement and ground level, the first floor has an asymmetric appearance to the inner side elevation. The host property contains three flats and is located within a predominantly residential area, characterised by two, three and four storey dwellings. Beyond the appeal premises, the rear elevations of nearby properties benefit from a variety of scaled rear outriggers. No 10 adjoins the appeal premises and appears to be of a similar layout and proportions, with a similar window arrangement. Ground levels fall away from Finchley Lane towards Victoria Road, with properties stepped in height down the hill.
6. The proposal would extend the outrigger at garden level beyond its existing rear elevation into the garden, maintaining its current width and height to

provide one additional habitable room to both the upper ground floor and first floor flats.

7. The Council have specifically referred to No 10 and No 14 within their decision notice, they have however referred to "the lower levels at No 10" and "rear elevation and terrace" of No 14. As such I have assessed the proposal accordingly.
8. With regards to the living conditions of No 12 (basement flat) this by its nature is set below the garden associated with the host property. It benefits from a patio with glazed door overlooking the rear garden and a projecting bay window set within the inner side elevation of the outrigger and a low brick wall boundary with No 10. I note that the existing outrigger projects beyond the main rear wall of the main host property, however this is modest in depth and terminates in approximately the same line / depth as the patio of No 12. The proposal would in contrast increase the depth of the outrigger somewhat well beyond the patio. Its projection, together with the overall height would obstruct the current open aspect when viewed from rooms within the basement of No 12 creating a harmful sense of enclosure for existing occupants when viewed alongside the boundary wall between No 10, resulting in an overbearing and oppressive outlook. Furthermore, I observed at the time of my site visit (mid-morning) that the basement of No 12 was in shade, shaded by the existing rear outrigger and that the ground floor of the outrigger and garden were shaded by the existing outrigger of No 14. Whilst I agree with the appellant that the existing outrigger does impact light levels for existing occupants within the basement of No 12, the proposal would project further somewhat beyond the existing. As such this would extend the period of which the basement of No 12 is subject to shade, the overall projection and height of the proposal, together with the extended period of shading, would erode the living conditions of the occupiers.
9. With regards to the basement of No 10, this by its nature is set below the garden. The boundary between the appeal premises is low, with occupants currently benefitting from an open outlook over the garden as well as over the side elevation of the outrigger of No 12 and oblique views across the garden of the appeal site. At the time of my site visit I observed that the basement of No 10 was in shade, shaded by the existing rear outrigger of No 12. The proposal would project somewhat beyond the existing outrigger and as such would extend the period of which the basement of No 10 is subject to shade. Due to positioning of windows, the proposal would be visually prominent, dominating the outlook from within the basement of No 10 and thereby reducing the existing spaciousness. Thus creating a harmful sense of enclosure and eroding the living conditions of the occupiers.
10. With regards to the ground floor of No 10, this is set above garden level and benefits from a window to the rear main elevation and to the inner side elevation in the form of a projecting bay. Occupants currently benefit from an open outlook over the garden associated of No 10 and obliquely over that of No 12. The proposal would increase the depth of the existing outrigger and square off the existing asymmetric roof to the outrigger. The additional projection together with the increase in height of the inner side elevation through the squaring off, encloses the current spaciousness which currently exists between the outriggers. The proposal thus dominating the outlook from rooms within the ground floor and lead to a sense of enclosure. At the time of my site visit I

observed that the ground floor of No 10 was in shade, shaded by the existing rear outrigger of No 12. The proposal would project somewhat beyond the existing outrigger and as such would extend the period of which the ground floor of No 10 is subject to shade.

11. With regards to the first floor within No 10, this benefits from a window to the rear main elevation and window with partially glazed door to the rear of the outrigger. The proposal would project somewhat out from the main rear wall, would square off the existing roof form; whilst maintaining the approximate height of the existing outrigger. While the proposal would dominate views from the window within the main rear elevation, it would not do so from within the outrigger.
12. With regards to No 14, this is located adjacent to the appeal premises. I observed on site that the first floor benefits from an assortment of outriggers to the rear with a roof terrace above the single storey element, which currently project beyond the outrigger of the appeal site. The rear of the first floor benefits from a large proportion of glazing with a solid parapet wall surrounding the roof terrace. Whilst the proposal would maintain the existing spacing between the properties it would project beyond the existing outrigger and project approximately one storey higher than the parapet wall. As such the proposal would appear overbearing for the occupants from within No 14.
13. The appellant has questioned the lawfulness of the rear extension and roof terrace to the rear of No 14. I have not been presented with any substantive evidence regarding its lawfulness. As such I have assessed the proposal from my observations on site.
14. The appellant has also drawn my attention to examples of similar rear outriggers to No 6, No 8, No 14, No 18, No 20 and No 22 Second Avenue. Whilst aerial imagery highlighting the appeal site and the wider street scene has been provided, these images do not specify which property is which with regards to the examples stated above. I have however observed several rear outriggers to nearby properties which appear to project beyond the main rear wall. Notwithstanding this, I have not been provided with the circumstances relating to their presence to ascertain if conditions relate.
15. The Council contend that the proposal would be contrary to Policy DM02 of Barnet's Local Plan, (Development Management Policies) Development Plan Document (2012) and Policy D6 of the London Plan; however, these relate to development standards and seek to ensure acceptable levels of living standards in housing developments. As the proposal subject to this appeal relates to extensions to an existing dwelling these policies are not applicable in this instance.
16. I conclude that the proposal would have a harmful effect on the living conditions of occupants within the basement of No 12, the basement and ground floor of No 10 and to occupants of No 14. I therefore find conflict with Policy DM01 of Barnet Local Plan, (Development Management Policies) Development Plan Document (2012), which seeks amongst other things, to ensure development allow for adequate daylight and outlook for adjoining occupiers. There would also be conflict with Policy D3 of the London Plan (2021) which seeks to ensure, amongst other things, appropriate outlook and privacy. There would also be conflict with the Local Plan Supplementary Planning Document: Residential Design Guide (2016) which seeks to ensure,

amongst other matters, two storey rear extensions do not have an overbearing impact or lead to a loss of light and outlook. There would also be conflict with the National Planning Policy Framework which seeks, amongst other matters to ensure that development creates a high standard of amenity for existing users.

Other Matters

17. With regards to the appellant's assertion that the occupiers of the basement flat at no. 12 did not object, whilst this may be the case, the absence of objections does not signify that a proposal accords with the development plan.
18. I acknowledge that the proposal would be constructed from similar materials, that it would be narrower than the existing outrigger and that there would be no harm to the character and appearance of the proposal. The absence of harm in relation to these matters is a neutral consideration in my determination of this appeal which weighs neither for nor against the proposed development.

Conclusion

19. For the reasons set out above, the proposal conflicts with the development plan taken as a whole. There are no other material considerations which indicate that the decision should be made other than in accordance with the development plan. I conclude that the appeal should be dismissed.

L Clark

INSPECTOR