



Appeal Decision

Site visit made on 12 December 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 February 2024

Appeal Ref: APP/W5780/W/23/3325241

52 Green Lane, Redbridge, Ilford IG1 1YJ

- 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 Samraj Claire against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 4017/22, dated 14 December 2022, was refused by notice dated 1 March 2023.
 - The development proposed is conversion and single storey extension of ground floor to create 2 flats at 52 Green Lane, Ilford, London, IG1 1YJ.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2023 and is a material consideration in planning decisions. The main parties were given the opportunity to comment on any relevant implications for the appeal.
3. A planning obligation has been provided with the appeal which relates to a contribution towards mitigation for the Epping Forest Special Area of Conservation (the SAC), which is a European designated site under the Habitats Regulations¹. I shall return to this later in my decision.
4. A Daylight, Sunlight, and Overshadowing Assessment for Surrounding Properties by Elmstead Energy Assessment and Building Services 10.05.2023 (the EEABS Assessment) was provided with the appeal. This does not change the substance of the proposed development that was considered by the Council, who has had the opportunity to consider this as part of the appeal documentation. Having regard to principles and tests in recent legal judgements² the Council and interested parties would not be prejudiced by my consideration of this.

Main Issues

5. The council in their appeal statement confirmed that the appeal scheme was not refused on the basis of harm to the character and appearance of the area. The main issue is therefore the effect of the proposed development upon the

¹ The Conservation of Habitats and Species Regulations 2017 (as amended)

² Wheatcroft (Bernard) Ltd v Secretary of State for the Environment (1982) JLP 37 and Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

living conditions of the occupiers of No 50 Green Lane with particular regard to daylight, sunlight and outlook.

Reasons

6. The appeal building is a two-storey terraced property on Green Lane close to the junction with Sunnyside Road. It is currently divided into flats, and the appeal proposal relates to changes to the existing ground floor 2-bed flat. The proposal would introduce an extension at the rear and reorder the internal layout to create an additional unit at the ground floor. The overall level of accommodation on the ground floor would be one x 1-bed unit and one x 2-bed unit, with associated cycle and refuse storage and parking retained. The immediate surroundings are predominantly residential comprising individual homes and flats with rear gardens.
7. The appeal property has already been extended by approximately 3.3 metres at the rear. The extended parts run across the entire width of the property but in two distinct sections. The element which abuts No 54 Green Lane comprises a more lightweight shallow pitched roof. No 54 has a rear extension of similar depth. The section on the joint boundary with No 50 Green Lane has a flat roof with higher parapet features to its sides. There is no rear extension on No 50.
8. The EEABS Assessment³ provides window reference diagrams for No 50. The proposed ground floor rear extension would sit on the boundary with No 50 near to a ground floor window and the garden space immediately to the rear of that house.
9. The proposed extension would be as high as the existing side wall parapet on the joint boundary with No 50. This extension is stated to be 3.25m high at parapet level. The site boundary with No 50 comprises a high close boarded fence. This extension is stated to be 1.45m higher than the fence, and I observed that there was a significant difference between the height of the fence and the top of the parapet.
10. Due to the orientation of the proposed extension relative to No 50 as shown in the appellant's shadow castings, there would be increased overshadowing of the garden area and window closest to the boundary during the early hours of the day. However, the EEABS Assessment undertaken in accordance with established methodology⁴ explains that there would only be a negligible impact to the amount of sunlight hours the window and garden would receive under the proposed scheme overall.
11. The rear windows and garden of the appeal property and its adjoining neighbours have a southerly aspect. Gardens and rear windows of No 50 will therefore still receive good levels of sunlight and daylight, and the times of additional overshadowing would be limited to a minimal number of hours. I am satisfied that the property would retain good daylighting from the sky and would retain a largely open southerly aspect for direct sun lighting for most of the day.
12. The EEABS Assessment provides technical analysis that the development would not cause significant effects in terms of daylight, sunlight and overshadowing.

³ Appendix B – Window Reference Diagrams

⁴ 'Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice' Third Edition 2022 - The Building Research Establishment.

However, whilst referring to outlook therefore being acceptable, the analysis is focussed on light and does not go into further detail in terms of analysing outlook which involves other considerations. In this respect, the Council's Housing Design Supplementary Planning Document 2019 (the SPD) advises extensions should not project more than 3.5m from the original rear wall of the dwellinghouse. Although this a general rule of thumb and not policy, this adopted guidance supports the Council's policies with the aim of seeking to ensure development avoids being overbearing. The extension would increase the built development on the boundary to 6m in total beyond the neighbouring property at No 50. This would clearly be at odds with the SPD and result in the further 'creep' of the extension beyond No 50 which the SPD also seeks to avoid.

13. I do not consider the difference between the fence height and the proposed extension to be negligible. Although the fence is a solid feature the extension at the height envisaged would loom above the garden and there would be erosion of the current level of openness experienced to that side. This would be particularly so from the window closest to the development and directly from within the adjacent part of the garden. A reduction in the height of the extension to 3.15m would still result in increased mass above the height of the fence. This is also not part of the proposal before me. Consequently, it would not be reasonable to secure this by condition and furthermore this is only a small reduction in height
14. It is appreciated that the length of the extension along the boundary would be increased by 2.7m, but the totality of the built form at the height proposed combined with the distance to the neighbouring windows and garden boundary would create a visible, dominant and long oppressive feature. It would result in a sense of significant enclosure along this boundary. The combined effects would make the room served by the closest window and the garden area less attractive to use as a result. Although the depth of the garden at No 50 is relatively long and would be free from built development for a proportion of it, it is reasonable to expect outside garden areas close to the main house to be well used. The width of the garden at No 50 would not make the extension any less visible or dominant.
15. I acknowledge there are similarities with No 60 Green Lane, which was subject to a prior approval application using Permitted Development Rights⁵ (PD Rights). However, No 52 is not a dwellinghouse, it is a flat, and PD Rights simply do not apply here for this development. I also do not know if there were any particular site factors involved or if the development is exactly the same length or height as the proposed extension before me. PD rights for larger extensions to single dwellings are also subject to conditions, limitations or restrictions and I also do not have any substantive information regarding the other examples in the area. I have in any case determined this appeal on its own merits.
16. Although there is no right to a view, in planning terms, residents should be able to have a reasonable expectation that their outlook is not dominated by the close proximity and extent of development. The appellant contends that the property at No 1 Sunnyside and its substantial trees which are located to the rear of the site already compromise the living conditions of No 50. Even if

⁵ Under the Town and Country Planning (General Permitted Development) (England) Order 2015.

existing outlook may be compromised already, this does not mitigate additional development that would make it worse.

17. The guidance for extension depths contained within the SPD for single storey rear extensions, which I have referred to above, would equally apply to No 54. The extension would fall within the parameters contained within the SPD as it would be 2.7m beyond the rear of the extension at No 54 and would not be double storey. As such I have no substantive evidence to conclude that the development would result in loss of light or cause the same harm to the living conditions of the occupiers of No 54.
18. For the above reasons, the proposed development would avoid adverse impacts on sunlight and daylight received by neighbouring properties as required by Policy LP30 of the Redbridge Local Plan 2018 (the Local Plan). However, it would harm the living conditions of the occupiers of No 50 Green Lane with particular regard to outlook.
19. Therefore the development would be contrary to Policy LP26 of the Local Plan. This seeks amongst other things to ensure development does not result in an adverse impact upon the amenity of neighbouring occupiers in respect of outlook. For similar reasons, the proposal would be contrary to the guidance contained within the Council's SPD.

Other Matters

20. The site lies within approximately 6km of the SAC, as such this places a duty on decision-makers to have regard to the requirements of the Habitats Regulations in the exercise of their functions. However, there is no need for me to consider the implications of the development on the integrity of the SAC as I am dismissing this appeal for other substantive reasons, and it would not alter my overall decision.

Planning Balance

21. Whilst the proposal would accord with the Council's policies and SPD in respect privacy, daylight, sunlight, noise, vibration and matters of the external appearance of the design, nonetheless, the proposal would harm the living conditions of neighbouring occupiers in respect of outlook. This matter attracts significant weight in my assessment and draws the scheme into conflict with the development plan when read as a whole. The policies referred to within the reason for refusal relate to design and protecting living conditions which are consistent with the provisions contained within chapter 12 of the Framework which seek to achieve well designed and beautiful places, particularly paragraph 135 which states amongst other things, that development should create places with a high standard of amenity for existing and future users.
22. The Council sets out that its Housing Delivery Test results demonstrate recent under provision of housing delivery. As such, the officer report evidenced states the presumption in favour of sustainable development contained within paragraph 11 d) of the Framework should therefore be applied. This means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
23. The proposal would deliver a wider choice of homes in an accessible area. It would provide one additional one bedroom home which would assist in

addressing the housing delivery issues in the area, consistent with the Government's objective to boost supply. It would also provide improvements to the layout of the existing building, and future occupiers would be afforded good sized accommodation and external amenity space. However, given the small quantum of housing that would be delivered, the social and economic benefits of the proposed development would be relatively modest.

24. I acknowledge that interested parties, including the occupiers of No 50, did not comment or object to the proposal at application stage. Nevertheless, it is the function of the planning system to secure good living conditions for existing and future occupiers. As occupants and their opinions change over time the absence of objection therefore carries little weight in my determination.
25. The delivery of homes should not come at the clear expense of harming the living conditions of neighbouring occupants. Given my findings in relation to this issue, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently, there are no other considerations which outweigh the conflict with the development plan in this case.

Conclusion

26. For the reasons given above, having considered the development plan as a whole, along with all other relevant material considerations I conclude that the appeal should be dismissed.

K Williams

INSPECTOR