

Appeal Decision

Site visit made 21 March 2024

by K E Down MA(Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 April 2024

Appeal Ref: APP/N5090/D/23/3334055

150 Summers Lane, North Finchley, Barnet, London, N12 0QD

- 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 & Mrs Koutizadeh against the decision of the Council of the London Borough of Barnet.
 - The application Ref 23/4041/HSE, dated 18 September 2023, was refused by notice dated 13 November 2023.
 - The development proposed is a first-floor rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a first-floor rear extension at 150 Summers Lane, North Finchley, Barnet, London, N12 0QD in accordance with the terms of the application, Ref 23/4041/HSE, dated 18 September 2023, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 223098/01 and 223098/02.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) The extension hereby permitted shall not be occupied until the rear facing windows have been fitted with obscure glazing and no part of those windows that is less than 1.7m above the floor of the room in which it is installed shall be capable of being opened. Once installed the obscure glazing shall be retained thereafter.

Main Issue

2. There is one main issue which is the effect of the proposed extension on the living conditions of occupiers of the host dwelling with respect to outlook.

Reasons

3. The appeal dwelling is a modest, mid-terraced house with a small rear garden. It has an existing single storey rear extension. The proposed first floor
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extension would sit above this but would project no further back than a similar first floor extension at the adjoining dwelling No 152. It would also be set away from the boundary with No 148.

4. The Council raises no concerns regarding the effect of the proposed extension on the character or appearance of the host dwelling or the surrounding area or on the living conditions of neighbouring occupiers. I agree that in these respects it would be acceptable.
5. However, unlike the similar extensions at Nos 152 and 154, the rear facing windows are shown on the submitted plans to be obscure glazed and non-opening below 1.7m above the floor level of the proposed room. The Council is concerned that this would result in an inadequate outlook for occupiers of the dwelling. Roof lights and openers above 1.7m would provide adequate light and ventilation as well as views of sky.
6. The Council's Supplementary Planning Document: Residential Design Guidance (SPD), October 2016, suggests that there should be a distance of not less than 10.5m between first floor windows and a neighbouring garden. This distance is achieved between the existing rear first floor windows and the garden at 1 Porters Way to the rear. The proposed windows in the extension would thus be somewhat closer. Notwithstanding that the Council has previously permitted the similar extension at No 152 without obscure glazing in the rear facing window which also overlooks the rear garden of 1 Porters Way with a similar separation distance, it therefore appears that the obscure glazing has been proposed in order to comply with the SPD and protect the privacy of neighbouring occupiers.
7. The SPD also advises that habitable rooms should contain one window with adequate outlook. However, in the context of the appeal dwelling taken as a whole, and given that adequate light, ventilation and views of sky would be provided to the proposed extension, I am satisfied that, the use of obscure glazing would not be materially harmful to the living conditions of occupiers. An unrestricted outlook would remain from other windows in the dwelling and the proposed extension would not be oppressive owing to the skylights and high level, clear glazed windowpanes. This situation would appear to be comparable with a roof extension served by rooflights where outlook is restricted to views of sky. Therefore, the amenities of future occupiers would be preserved and the limited conflict with the SPD would be justified.
8. It is concluded on the main issue that the proposed extension would have no materially harmful effect on the living conditions of occupiers of the host dwelling with respect to outlook. In consequence, it would comply with Policy CS5 of Barnet's Local Plan (Core Strategy), September 2012, and Policy DM01 of Barnet's Local Plan (Development Management Policies), September 2012. Taken together and amongst other things, these expect development to be designed to allow for adequate outlook for adjoining and potential occupiers and users.
9. The Council suggests three conditions in addition to the statutory commencement condition. I agree that the development should be carried out in accordance with the approved plans and in matching materials to the host dwelling in order to provide certainty and to protect the character and appearance of the area. I also agree that in order to protect the privacy of

neighbouring occupiers to the rear, the obscure glazing proposed should be provided before the extension is first occupied and should be retained.

10. For the reasons set out above and having regard to all other matters raised, including the special needs of the appellants' child, I conclude that the appeal should be allowed.

KE Down
INSPECTOR