



Appeal Decision

Site visit made on 8 April 2024

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th May 2024

Appeal Ref: APP/Q5300/W/23/3332155

290 Durants Road, Enfield EN3 7AZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Mustafa Coban against the decision of the Council of the London Borough of Enfield.
 - The application Ref is 23/00837/FUL.
 - The development proposed is creation of outdoor seating area at front, with single storey rear extension to create additional space for seating/dinning in, together with alterations to front and rear fenestrations at ground floor level.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments.

Main Issues

3. The main issues are:
 - the effect of the proposed rear extension on the living conditions of the occupants of 288 Durants Road (No 288) with particular reference to outlook, daylight and sunlight; and
 - the effect of the proposed outdoor seating area on the character and appearance of the surrounding area.

Reasons

Living Conditions

4. The Council do not quantify which rooms within No 288 would be affected by the proposed single-storey extension. As such, my assessment has been made on the evidence before me and observations on site.
5. The appeal property (No 290) is an end-of-terrace, two-storey building located within a mixed-use area. Adjacent to the flank elevation is an alleyway which provides pedestrian access to the rear of its immediate neighbour No 288 and the appeal site. The rear wall of No 288 is stepped with a two-storey outrigger set off its boundary with the alleyway.
6. The rear of No 290 has a single-storey outrigger projecting beyond its two-storey outrigger, with a single-storey outbuilding located at the end of the

garden. The separation between the outrigger and the outbuilding assists in retaining the openness between the rear of Durants Road and the properties beyond.

7. The proposed development seeks to infill the area between the existing single-storey outrigger and the outbuilding to provide an additional seating area associated with the hot food takeaway (HFT). This would also increase the height of the boundary to the alleyway for approximately the full length of the plot.
8. The main rear wall of No 288 is set significantly behind the furthest rear wall of No 290. The existing break between the rear wall of the single-storey outrigger and the outbuilding currently provides oblique views out over its boundary with the alleyway and the garden of No 290. The proposed increase in height and depth on the boundary of No 290 would result in a large, solid expanse of wall being visible from the rear windows of No 288 and dominating the view from the ground floor. This would erode the open characteristic of the rear and have an overbearing impact on the occupants of No 288. As such, the proposal would cause harm to their living conditions, particularly in terms of outlook.
9. At the time of my site visit the sky was overcast, and I have no substantive evidence from either party to quantify the impact with regard to light levels. Notwithstanding this, given the orientation of the properties and the location of windows within No 288 to the built form of No 290, it is likely that the windows to the rear of No 288 would be shaded by the existing layout. Therefore, the proposed rear single-storey extension would not adversely effect the living conditions of existing occupants of No 288 to a degree that would warrant planning permission being refused.
10. For the above reasons, I conclude that the proposed development would be acceptable in terms of sunlight or daylight but would result in unacceptable living conditions for the occupants of No 288, with particular reference to outlook. Accordingly, the proposal would be contrary to Policy D3 of the London Plan (2021) (LP), Policy CP30 of the Enfield Plan Core Strategy 2010-2025 (Core Strategy), and Policy DMD37 of the Enfield Development Management Document 2014 (DMD). These collectively seek, amongst other matters, to ensure development delivers appropriate outlook and amenity as well as seeking high-quality and design-led development. There would also be conflict with the chapter 12 of the Framework insofar as it seeks to ensure development creates places with a high standard of amenity for existing and future users.
11. The decision notice refers to Policies DMD6 and DMD8 of the DMD. However, Policy DMD6 relates to residential density levels for new dwellings. Even though Policy DMD8 seeks, amongst other things, to preserve amenity in terms of daylight, sunlight and outlook, it relates to general standards for new residential development. As the dispute relates to an extension to a commercial premises, these policies are not applicable in this instance.

Character and Appearance

12. No 290 is a HFT. The adjoining terrace contains a range of commercial uses to the ground floor with accommodation above. Residential properties are located beyond the alleyway and directly opposite. The area immediately outside the commercial uses consists of different hard surfaces edged by a strip separating it from the pavement beyond. The adjoining commercial unit (Durants Food &

Wine) has an awning projecting out from its frontage enclosed at either end. Portable shelving units, displaying a range of fruit and vegetables and a National Lottery sign, were set beneath.

13. The proposed outdoor area would be ancillary to the HFT and contain seating and tables. It would extend from the face of the building up to the pavement with Durants Road. As the area immediately outside of the commercial units is currently being used as an extension to the existing businesses, an external seating area would not look out of place against the prevailing mixed-use character. Consequently, having regard to the siting and location of the outdoor seating area, the development would not be an incongruous or dominant form of development.
14. Given the proximity to residential dwellings, it would be important to ensure that the seating is removed and stored when not in use, as suggested by the appellant. This matter could be addressed by a suitably worded condition if I were minded to allow the appeal. Subject to the imposition of such a condition, I am satisfied that the proposed outdoor seating area would not be harmful to the character and appearance of the surrounding area.
15. I note that the officer report considers that the proposed rear extension would be more dominant than the previously refused pergola ref 22/03238/FUL. However, I have not been provided with any evidence to support this view and nor is the rear extension cited within the decision notice as being harmful to the character and appearance of the surrounding area. Given that the extension is to the rear and not readily visible from the surrounding streets I do not consider its presence would be harmful to the character or appearance of the area.
16. For the above reasons, I conclude that there would be no conflict with Policy D3 of the LP, Policy CP30 of the Core Strategy or DMD37 of the DMD which collectively seek, amongst other matters, for development to provide active frontages and positive reciprocal relationships between what happens inside the buildings and outside in the public realm to generate liveliness and interest; and ensure new development is of a high-quality design. There would also be no conflict with chapter 12 of the Framework which seeks to ensure developments function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.
17. The decision notice refers to Policies DMD6 and DMD8 of the DMD, these Policies however relate to residential density levels and general standards for new residential development. As the main area of dispute relates to an extension of a commercial use, these Policies are not applicable in this instance.

Other Matters

18. The proposed alterations to the front and rear windows at ground floor level would comprise the installation of a new shopfront. The Council had no concerns in this respect and based on the evidence before me, I see no reason to disagree.

Planning Balance and Conclusion

19. I recognise that the proposal would extend the floor area to an existing business to accommodate patrons which would entail an uplift in employees.

However, I have no substantive evidence to quantify these benefits. Whilst I sympathise with the appellant regarding the need for the development and I have found the development would not cause harm to the character and appearance of the area, it would result in unacceptable living conditions for the occupants of No 288, to which I attach significant weight. The benefits of the development would not outweigh the harm identified.

20. Therefore, on balance, I find that the proposal conflicts with the development plan taken as a whole, and material considerations do not indicate the decision should be made other than in accordance with the development plan. For the reasons given above, I conclude that the appeal should be dismissed.

L Clark

INSPECTOR