

Appeal Decision

Site visit made on 2 July 2024

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2024

Appeal Ref. APP/Q5300/D/24/3341549
23 Kynaston Road, Enfield EN2 0DA

- 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 Brian Cade against the decision of the Council of the London Borough of Enfield.
 - The application ref. is 24/00161/HOU.
 - The development proposed is described on the application form as “*Single storey side and rear extension with lean-to roof*”.
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Decision

1. The appeal is allowed and planning permission is granted for single storey side and rear extension with lean-to roof at 23 Kynaston Road, Enfield EN2 0DA in accordance with the terms of the application, ref. 24/00161/HOU, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan numbered: 2023-984/100 Rev A.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those of the existing dwelling.

Application for costs

2. An application for a full award of costs was made by Mr Brian Cade against the Council of the London Borough of Enfield. This application is the subject of a separate Decision.

Main issue

3. Although the Council’s decision notice refers to impacts on amenity “... *as perceived from neighbouring properties including No. 25 Kynaston Road...*”, the officer’s report did not raise any specific objections on this matter other than in respect of no. 25. The main issue is therefore the effect of the proposed extension on the amenities and living conditions of the occupiers of the adjoining property at 25 Kynaston Road with regard to the potential for a loss of outlook and an increased sense of enclosure.

Reasons

4. Like many other properties along Kynaston Road, nos 23 and 25 are 2-storey terraced houses with original 2-storey rear outriggers. The appeal property was built with its outrigger shared across the party wall with no. 21 and stepped in from the opposite side boundary leaving an open and narrow side yard. This yard is adjacent to the similar side yard to no. 25. The yards are separated by a fence which reaches about 1.7 m high.
5. The appellant wishes to build a single storey extension that would infill the side yard alongside the outrigger just inside the common boundary and wrap around the rear of the outrigger.
6. Policy DMD 11 of Enfield's Development Management Document November 2014 (EDMD) covers rear extensions. Such extensions will only be permitted if, amongst other things, there is no impact on the amenities of neighbouring properties. Single-storey rear extensions must not exceed 3 m in depth beyond the original rear wall of terraced properties. In the case of pitched roofs, the extension should not exceed 4 m in height when measured from the ridge and 3 m at the eaves. They must not exceed a line taken at 45 degrees from the midpoint of the nearest original ground floor window to any of the adjacent properties or must secure a common alignment of rear extensions.
7. Without any clear and detailed guidance either in the justification to Policy DMD 11 or in any supplementary planning document, this policy is evidently open to interpretation, particularly when it comes to properties with stepped or irregular rear building lines like nos 23 and 25. For example, I have been referred to an appeal decision from 2016 (ref. APP/Q5300/D/16/3146978) at 41 Kynaston Road where the Inspector indicated there would be compliance with the restriction on depth because the original rear wall of the terraced property was marked by the outrigger. As the proposed extension at no. 23 would extend only 1.8 m from the end wall of the outrigger, it too would similarly comply with the policy based on that interpretation.
8. However, the previous Inspector still recognised it was necessary to assess the impact on the neighbouring property that might be caused by the side infill part of the extension. Moreover, even though it is not as wide as the outrigger, it is difficult to categorize the original wall of no. 23 that contains a bedroom window above the opening to a rear living room as anything other than an original rear wall since it is directly opposite the front of the house. So, the original rear wall of the house is stepped and contains this rear wall as well as the outrigger's rear wall. I consider that each of these walls will form the original rear wall of this terraced property. I prefer this interpretation which seems to fit with how the Council approached this particular case.
9. The outlook from the first floor rear bedroom window at no. 25 would not be adversely affected due to the extension being at only ground floor level. The lean-to roof would not appear visually obtrusive in views from that window.
10. The extension would intercept the 45-degree line in respect of the ground floor patio door below that bedroom window at no. 25 and significantly exceed 3 m in depth if this rear wall of the house, to which the side infill extension would be attached, is classed, as I have indicated it should be, as being part of the original rear wall of this terraced property. That said, it is significant that the proposed extension would be notably lower than the permitted height limits at

both the ridge (3.450 m) and the eaves (2.633 m) and only marginally higher on the boundary than the fence and any boundary structures that could potentially be erected in the future using permitted development rights. It is also important to take account of the site context where the 2-storey outriggers with opposing windows and the narrow side yards at the rear of these terraced properties have a very close-knit relationship which already compromises the living conditions (including outlook and degree of enclosure) of existing residential occupiers.

11. The narrow outlook from the fully glazed ground floor patio door at no. 25 towards the good-sized back garden, which faces east/south-east, would endure, being framed by the 2-storey outrigger at no. 25, the boundary fence and the limited additional height of the side of the proposed infill extension above that fence. I consider that the extension would not create an unacceptable sense of enclosure or appear visually overbearing when seen in the outlook from this rear-facing patio door when compared to the existing situation. Moreover, insofar as I could tell, the habitable room the patio door serves benefits from an additional window at the front of the property.
12. Similar considerations are in play when looking at the opposing ground floor window in the side of the outrigger of no. 25 which appears to serve a dining/kitchen area like the one I saw at the appeal property. I would class this space as a habitable room. The very limited outlook available from this window is directly onto the boundary fence and then the 2-storey outrigger of no. 23, no more than about 4 m away. The change in outlook from this window that would be caused by the proposed extension would not be so significant as to be unacceptable. Again, the dining/kitchen area at no. 25 is dual aspect; it has an additional window in the rear wall of the outrigger overlooking the back garden.
13. In addition to the above considerations, I have also had regard to other similar extensions that were permitted on the same side of Kynaston Road, particularly at nos 13, 27, 29 and 41. The case at no. 33 has limited relevance as it concerned an application for prior approval and did not relate to an application for planning permission. In any event, whilst the schemes that received planning permission lend a moderate degree of weight to the appellant's case, I have determined the appeal on the basis of the evidence before me and my own site observations and interpretation of planning policy. The lack of objection from the occupiers of no. 25 is a further material consideration in favour of the appeal scheme.
14. I find on the main issue that the proposed extension would not have an unacceptable effect on the amenities and living conditions of the occupiers of the adjoining property at 25 Kynaston Road with regard to the potential for a loss of outlook and an increased sense of enclosure. The proposal would accord with Core Policy 30 of Enfield's Core Strategy November 2010 and Policies DMD 8 and DMD 37 of the EDMD. There would be some divergence from some of the detailed criteria in Policy DMD 11 of the EDMD but no material conflict with the underlying aim of the policy to protect the amenities of neighbouring properties. There would be compliance with the National Planning Policy Framework which expects developments to create places which promote health and well-being, with a high standard of amenity for existing and future users.

15. The Council has suggested 3 conditions in the event of the appeal being allowed. I have considered these. In addition to a condition setting a time limit for the commencement of development, a condition requiring that the development is carried out in accordance with the relevant approved drawing is necessary as this provides certainty. I have imposed a condition requiring the use of matching materials to ensure that the development would safeguard the character and appearance of the area.
16. For the reasons given above and having regard to all other matters raised, I conclude that this appeal should be allowed.

Andrew Dale

INSPECTOR