

Appeal Decision

Site visit made on 28 August 2024

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2024

Appeal Ref: APP/N5090/W/23/3331370

60 Kings Close, Hendon, Barnet, London NW4 2JT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Zsolt Papp against the Council of the London Borough of Barnet.
 - The application reference is 23/2751/HSE.
 - The development proposed is a part single, part double storey side & rear extension & internal alterations.
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Decision

1. The appeal is allowed, and planning permission is granted for a part single, part double storey side & rear extension & internal alterations at 60 Kings Close, Hendon, Barnet, London, NE4 2JT in accordance with the terms of the application, Ref 23/2751/HSE, and the plans submitted with it, 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 drawing nos.: Roof & floor plans + elevations of existing dwelling (KnC/G/RP1 Rev A); Floor & roof plans of proposed dwelling (KnC/G/RP2 Rev A); Front, side & rear elevations of proposed extensions (KnC/G/RP3 Rev A)
 - 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 roof of the extension hereby permitted shall only be used in connection with the repair and maintenance of the building and shall at no time be converted to or used as a balcony, roof garden or similar amenity or sitting out area.

Preliminary Matter

2. The appeal is against the Council's failure to determine a planning application within the prescribed period. The Council has provided a report and a draft decision notice and it is clear that they would have refused the application had it been able to do so within the statutory timescale.

Main Issues

3. The main issues are the effect of the development on:

- the character and appearance of the appeal property and the surrounding area; and
- the living conditions of the occupiers of 62 Kings Close with particular regard to outlook and light.

Reasons

Character and Appearance

4. The appeal property is a two-storey property at the end of a short row of terraced properties on Kings Close. The area is characterised by similar short rows of terraced properties which are set back from the road by short front gardens. Properties on this side of Kings Close have generous rear gardens backing onto the Dollis Brook. This lends the area a sense of verdancy and spaciousness.
5. The appeal property has been previously extended with a hip to gable roof extension and rear dormer and many other properties in the vicinity have been altered and extended in a variety of manners and styles. As a result, the properties have a mixed character and appearance, albeit their design origins are generally still evident.
6. The proposal before me involves a two-storey side extension with a hipped roof and a flat roofed single storey element to the rear, similar in dept to that of the neighbouring extension at 58 King Close (No. 58). The front elevation of the extension would be set back from the main façade of the appeal property and a roof ridge that would be lower than the main roof of the house. The rear portion of the proposal would be similar in depth to others close by. The two-storey element would be stepped away from the boundary with No. 58.
7. The Council refers to conflict with their Residential Design Guidance Supplementary Planning Document (SPD). As a side extension, the Council is concerned that it does not follow the principles set out at section 14 of the SPD. The proposal would deviate from this advice. However, it would be viewed in the context of similar extensions with narrow gaps between properties are commonplace along the street and those surrounding it. As the appeal property lies within a row of properties, its side elevation would not be prominent, and the proposal would be generally in keeping with the wider street scene. Furthermore, the public footpath which lies between the appeal property and No. 62 would ensure that a gap between the two is retained.
8. For these reasons, I conclude that there would be no harm to the character and appearance of the appeal property or the surrounding area. Consequently, I find that there would be no conflict with Policy D3 of the London Plan 2021, Policies CS5 of the Barnet Local Plan Core Strategy 2012 (BCS), and Policy DM01 of the Barnet Local Plan Development Management Policies 2016 (BDMP), which amongst other things, seek to ensure development is of high quality which responds to the character of a place.

Despite technical breaches of the SPD's guidance, the site-specific circumstances of this appeal mean that the scheme would still comply with the overall amenity and design aims of the guide and those contained within the development plan as a whole.

Living Conditions

9. The proposal would be separated from 62 Kings Close (No. 62) by a shared pedestrian path between the appeal property and No.62. Although it would be close to the boundary its limited length beyond the rear elevation would not be such an imposing feature as to be detrimental to the outlook of occupiers of that property. Furthermore, I have not been presented with any substantive evidence that the proposal would lead to an unacceptable loss of either sunlight or daylight which rooms with windows on the rear elevation of No. 62 or its garden would receive.
10. The set back of the two-storey element of the proposal from the shared boundary with No. 58 means that living conditions of the occupiers of this property would not be affected. However, it would be reasonable to attach a condition to the permission to ensure that remains the case.
11. I therefore conclude that the appeal proposal would not have an unacceptable impact on the living conditions of the occupants of 62 Kings Close with regard to outlook and light. As such, it would comply with BCS Policy CS5 and BDMP Policy DM01 which amongst other things seeks to ensure that new development is of high quality which provides good standards of amenity for existing occupiers. There would also be no conflict with the SPD in this regard.

Other Matters

12. Objections to the proposal have been received from neighbouring residents regarding the use of the property as an unregistered House in Multiple Occupation and works commencing on site, and the age of the occupier of the neighbouring property. These are not matters I can take into consideration as part of a section 78 planning appeal for operational development, for which I have had regard to the planning considerations for the proposal before me only.

Conditions

13. I have considered the Council's suggested conditions in the light of the National Planning Policy Framework and Planning Practice Guidance. I agree that a plans condition is necessary and reasonable in the interests of certainty. I have also attached a matching materials condition in the interests of the character and appearance of the area. Additionally, I have included a condition relating to the use of the flat roofed element of the proposal as a balcony as this would have the potential to have implications for living conditions of occupiers of the adjoining property and is therefore reasonable.
14. I have not included the suggested condition relating to removal of permitted development (PD) rights for the insertion of openings in the side elevations of the proposal because any additional windows at first floor level on side elevations would need to be obscure glazed and non-opening below

1.7 metres to benefit from PD rights¹, therefore it doesn't pass the tests of necessity or reasonableness in the context of this proposal.

Conclusion

15. For the reasons given above, having considered the development plan when read as a whole and all other issues raised, I conclude that the appeal should be allowed, and planning permission granted subject to the conditions set out above.

K L Robbie

INSPECTOR

¹ Town and Country Planning (General Permitted Development) Order 2015 (as amended) Schedule 2 Part 1 Class A Conditions A.3 (b)