Planning Inspectorate

# Appeal Decision

Site visit made on 22 April 2025

**by John D Allan BA(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 08 May 2025**

**Appeal Ref: APP/R5510/D/25/3360027**
**23 Daymer Gardens, Eastcote, Hillingdon, HA5 2HW**

- 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 Vikas Suresh against the decision of the Council of the London Borough of Hillingdon.
- The application Ref is 45997/APP/2024/2944.
- The development proposed was described as '*Demolition of existing rear conservatory - Erection of a 2-Storey Rear extension, part single, part 2-storey side extension and a front extension'*.

## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The Council submitted two sets of plans with their appeal questionnaire. The original planning application included a single-storey front extension forming part of the proposed side extension. The schedule of plans referred to on the Council's decision notice include those annotated with '*Rev 1*'. These plans include the front extension. However, it is clear from the Council's officer's report and the appellant's appeal submissions that the application was revised and the front extension omitted. These alterations are shown on the second set of plans annotated '*Rev 2*'. For clarity purposes I confirm that I have considered the appeal based on the revised plans, which I understand to be those determined by the local planning authority.

## Main Issue

3. The main issue is the effect of the proposal upon the living conditions at 25 Daymer Gardens with particular regard to visual impact.

## Reasons

4. The appeal property is a modern two-storey, detached dwelling in Georgian-style within a residential cul-de-sac development of similar properties. Due to the alignment of Daymer Gardens at this point, its neighbour to the east (No 25) is set significantly forward of the appeal property such that its rear elevation almost aligns with the front elevation to No 23 with only a small overlap. There is an existing detached garage to the rear of the appeal property built along the common side boundary with No 25 and an open car port in front which sits to the side of the existing dwelling. The proposal would see the garage and car port, along with an

existing rear conservatory extension, replaced with an addition to the rear and which would wrap around the dwelling's side elevation with an 'L-shaped' footprint. The extension would be double-storey where it would project the existing form of the dwelling rearwards and sideways, with a single-storey corner element nearest the boundary with No 25.

5. Appendix A – Householder Development Policies of the Hillingdon Local Plan: Part 2 Development Management Policies (DMP), adopted in 2020, talks about the 45-degree Rule at paragraphs A1.24 - A1.26. It says that, as a general guide and rule of thumb, the 45-degree rule can be used to establish the maximum permissible height, depth and width of an extension. It advises that the 45-degree rule can be used to check if an extension may result in a loss of light to adjoining windows. It goes on to say that applicants are advised to locate any extension as far from the 45-degree splay as practically possible to reduce the impacts to neighbours. There is nothing about this piece of guidance to suggest to me that the 45-degree rule deals only with light.

6. The planning application was accompanied by a *Daylight and Sunlight Assessment* which concluded that the proposed development would fully comply with the standards set out in the *BRE Report 209, Site Layout Planning for Daylight and Sunlight: A guide to good practice* (third edition, 2022) for daylight and sunlight impact with respect to 25 Daymer Gardens. I have no reason to disagree and I note that the Council raised no concern with the proposal in this regard. I note also the report explicitly stated that it only tested with respect to the neighbours' daylight and sunlight amenity and not for the aesthetic impact of the proposal.

7. The appellant has argued that because the proposal meets the BRE tests, it could not reasonably be considered to have a negative impact upon the neighbours' living conditions. I disagree. Daylight and sunlight impacts are one factor that contribute to the amenity of a residential space. The visual impact of a development upon an existing living environment is determined by many other factors including how the spatial qualities of an area, or the site-specific context, may change. In this instance, the two-storey scale of the proposed side extension of No 23 would significantly encroach beyond a 45-degree line projected from the mid point of the nearest first-floor bedroom window at No 25, as is clearly shown on the submitted plans. The same infringement would apply to the nearest ground floor set of patio doors at No 25. As such, regardless of any impact upon daylight to the neighbours' nearest windows, by failing the 45-degree test the proposal would precisely represent a form of development the Council's guidance specifically advises against.

8. The two-storey side element of the proposed extension would be set just 250mm away from the boundary with No 25 and would project around 6m beyond the neighbouring property's rear elevation. No 25 is set away from the same boundary by only the width of a side pedestrian access. Regardless of how the extension may pass empirical tests for daylight and sunlight, the side extension would impose itself in very close proximity upon the outlook from the nearest ground and first-floor living spaces, and upon the immediately adjoining rear garden space, as an overbearing and visually dominant intrusion of solid built form. Whilst the neighbours would still benefit from an aspect from their rear windows over their own garden and beyond, the extension's physical presence would markedly change the established sense of space and degree of openness which the adjoining occupiers

have become accustomed to and which they may reasonably expect to enjoy in their rear garden setting. This would create an unwarranted sense of enclosure that would be atypical of the local development pattern in terms of the proximity and relationship between neighbouring dwellings and which would be harmful to the living conditions at No 25. As such, there would be clear conflict with DMP Policies DMHB 11 and DMHD 1 as far as they both seek to ensure that new development has a satisfactory relationship with adjacent dwellings without any adverse impact upon amenity.

**Conclusion**

9. For the reasons given above, the appeal is dismissed.

*John D Allan*

INSPECTOR