

GROUND OF APPEAL

**Appeal by Mr and Mrs M. Dhalla,
relating to the refusal
by Hillingdon Council of a
householder planning application
for the demolition of an existing
single storey rear extension
and the erection of a
replacement single storey rear extension
at 39, Murray Road,
Northwood,
HA6 2YP
on the 6th November 2018.**

**Chris Watts MRTPI DMS
22nd JANUARY 2018.**

1. INTRODUCTION

- 1.1 This Statement of the appellants' grounds of appeal should be read in conjunction with all the other appeal papers and plans submitted to The Planning Inspectorate and dated 22nd January 2018, and in particular the cover letter for this appeal dated 22nd January 2018 (Appeal document 1). The appellants have agreed to the written representations route for this appeal.
- 1.2 The application which is the subject of this appeal was refused planning permission on the 6th November 2017, for the two reasons set out in Appeal document 4. These will be responded to later. The Council considers that firstly (ref 2017/3292), the proposed single storey rear extension by reason of its size, scale, bulk and design would harm the architectural composition of the host building, and would neither preserve nor enhance the character and appearance of the Northwood Town Centre Green Lane Conservation Area.
- 1.3 Secondly, it is further asserted that the development would, by virtue of its size, scale, bulk and proximity, be detrimental to the amenities of the occupiers of nos 37 and 41 Murray Road by reason of overdominance, overshadowing, visual intrusion, loss of light and loss of outlook.
- 1.4 A number of adopted planning policies in the statutory development plan are referred to in support of these two reasons, as set out in Appeal document 16, but there is no reference to any of the guidance applied by government to such developments as set out in the 2012 National Planning Policy Framework (NPPF) in either reason for refusal. I have had to assume therefore that the development is not in conflict in any way with the provisions of the NPPF.
- 1.5 I would ask the appointed appeal Inspector to also note that in the Informatives section attached in page 2 of the refusal decision notice, there is a reference to the assertion that this planning application''is a resubmission of a previously refused scheme where the Inspector's report identified issues to be addressed, which were reflected in that earlier refusal, allowing the opportunity to address those issues within this submission''.
- 1.6 **This is not the case.** I do not know where this assertion by the Council derives from, but application 2017/3292 is the first one to be made by the appellants.
- 1.7 Indeed, when the case officer first visited the site and met the agent, he did not indicate to the appellants' agent that there were serious problems with the proposal. It was only on receipt of the refusal decision notice that the appellants became aware of the issues raised by the Council, and their agent then had a telephone discussion with the case officer in November 2017 in which he raised the objection made by the Council's Conservation Officer, and their view that the extension had not been built off the rear wall of the 'original' dwelling thus resulting in a 6.2m extension depth, as forming the basis for the reasons for refusal.

2. PLANNING POLICY FRAMEWORK

- 2.1 This and other planning applications should, in accordance with Section 38 of the TCP Act 1990 be determined in accordance with the provisions of the statutory development plan unless material circumstances dictate otherwise. In this case the statutory development plan for Hillingdon Borough is made up of The 2012 Local Plan Part 1 Policies; The 2012 Local Plan Part 2 – Saved Unitary Development Plan (UDP) Policies; The 2016 London Plan, and relevant Supplementary Planning Document dealing with the design of residential developments and dated 2008 (HDAS).
- 2.2 The NPPF is also relevant and material in determining this appeal, even though no specific guidance has been used by the local planning authority to aid its reasons for refusal.
- 2.3 Whilst I doubt that the UDP is aligned with the NPPF because of the age of the saved policies, I accept that the two stated concerns of the Council, relating to the alleged harm to the host building and the character and appearance of the Conservation Area, and secondly the need to protect the residential amenities of the adjacent occupiers are both important considerations and material to this appeal.

3. PLANNING HISTORY

- 3.1 The only previous development which was determined by the Council post 1948, was dealt with as a form of householder permitted development under the Building Regulations through Building Regulations plans and Notice submitted and approved in 1980 by the Council under ref 27558. A copy of the approval notice and the floorplan for the single storey rear extension which was erected at that time are both attached in Appeal document 13.
- 3.2 That previous proposal is very material to this appeal. This is because the appellants' contention and view is that the current single storey rear extension (which has now been built externally), replaces that previous 1980 extension which it is clear to anyone who has visited the site **was constructed from the original pre – 1948 rear wall of the existing dwelling house.**
- 3.3 The evidence for that view can be found in an examination of the alignment and height of the exposed timber joists at ceiling level, and the original brick arched detailing under the side passageway close to where the new extension has been commenced.
- 3.4 These are in our view, original features of the dwelling house and must have existed pre – 1948 and therefore with the demolition of the 1980 extension which joined the original dwelling at that point, and its replacement with the existing extension, this latest replacement extension must therefore be co – joined to the original dwelling as it existed pre – 1948.

- 3.5 There are no plans available from the Council's archives to substantiate that assertion but the attached Building Regulations submission and floorplan help to back up the appellants' view.

4. PLANNING RESPONSE TO THE TWO REASONS FOR REFUSAL

- 4.1 I shall deal with reason for refusal one, first. The Council considers that the proposed single storey rear extension by reason of its size, scale, bulk and design would harm the architectural composition of the host building, and would neither preserve nor enhance the character and appearance of the Northwood Town Centre Green Lane Conservation Area.
- 4.2 Policies BE1 and HE1 of the Local [Plan – Part 1, and Policies BE4; BE13; BE15 and BE19 of the UDP are referred to in support of this contention by the Council.
- 4.3 Now that the extension has been erected and has been rendered externally, it is able to be seen on site and assessed in both respects. In relation to the host building I do not consider that the architectural composition of the dwelling has been harmed, instead the extension has provided a greater unity of composition at ground floor level.
- 4.4 The use of a cream render as the external finish to the extension results in a different external treatment to that of the first floor of the dwelling which is finished in brickwork, but there are countless examples of the mixture of such materials in the Conservation Area, and elsewhere in the Borough on other dwellings and commercial buildings.
- 4.5 The extension is also still subordinate to the size and scale of the existing dwelling in my view, and does not for example cover the whole width of the plot but is set back from the side boundary with no 41 by 1.4m, leaving space to that side for access through the existing passageway under the dwelling.
- 4.6 In addition, in relation to the location of the dwelling house in the Conservation Area it should be noted that Murray Road contains a wide variety of dwelling house built forms and designs, and that the single storey extension which has been erected here is at the rear of the house and cannot be seen from any public viewpoint.
- 4.7 The Council has not published any Conservation Area Character Appraisal for this particular Conservation Area which might give greater design guidance on how such extensions in Murray Road should be carried out, only the leaflet attached as Appeal document 15.
- 4.8 There must be flexibility able to be applied here in a pragmatic way, which enables a high quality and well - designed extension to be retained here which does not slavishly copy what exists. Indeed, I can think of many residential extensions where modern materials

and a completely contemporary built form adjoining a Victorian or an Edwardian house have been given design awards by the RIBA and other local authorities in England in recent years.

- 4.9 The test in law in a Conservation Area is that as long as the proposed development maintains or preserves the character and appearance of the Conservation Area then it can be approved since that character and appearance has not been harmed. There is no need in law to have to enhance that character or appearance.
- 4.10 I consider that is the case here and that the rear extension has a neutral impact on the character and appearance of this Conservation Area, whose character is very mixed in any case.
- 4.11 In relation to the guidance contained within the NPPF, paragraphs 132 to 134 deal with the different levels of harm as relating to the impact of a development on the significance of designated heritage assets such as Conservation Areas and what approach should be taken in applications and appeals.
- 4.12 I do not consider that any harm has resulted to the significance of this Conservation Area in this case and even if the appeal Inspector concludes that 'less than substantial harm' has occurred, then the public benefits of the proposal outweigh that less than substantial harm.
- 4.13 By this I would mean in this case, the improvement and enhancement of the dwelling house through this extension and the associated alterations and improvements throughout to provide for the appellants' growing family; the employment of local builders and trades, and the support for the local economy through the purchase of local building supplies, and materials and that local people have been, and are likely to be employed in the building work.
- 4.14 The Council has taken this decision on the basis, mistakenly in our view, that the extension would result in a 6.2m depth of development when measured from what it considers to be the 'original' rear wall of the dwelling house.
- 4.15 In reality that is not the case. The extension has, in our view, (including that of the agent who is a professional and qualified architect), been built off the rear wall of the original dwelling house, pre – 1948, once the 1980 extension was removed. It is therefore 3.3m in depth from the original wall of the dwelling pre - 1948 and accords with the adopted 2008 SPD design guidance for residential extensions.
- 4.16 Given the width of the garden plot here of approx. 9m the Council's own 2008 SPD design guidance actually allows for a single storey rear extension to be built up to 3.6m in depth for semi - detached houses in such circumstances.

- 4.17 The height of the extension as built is 3.25m, only 0.25m above the height that the Council considers single storey rear extensions should be limited to where they abut a side boundary with their neighbour ie 3.0m.
- 4.18 Such a difference in height between what has been built and the Council's recommended design guidance height is slight and does not cause any harm in relation to Reason for refusal no 1, to the character and appearance of either the host dwelling or to the character and appearance of this Conservation Area.
- 4.19 I turn now to the alleged impact on the amenities of the occupiers of nos 37 and 41 Murray Road.
- 4.20 The Council asserts in this reason that the development would, by virtue of its size, scale, bulk and proximity, be detrimental to the amenities of the occupiers of nos 37 and 41 Murray Road by reason of overdominance, overshadowing, visual intrusion, loss of light and loss of outlook.
- 4.21 Now that the extension has been built and can be seen on the ground, it is clear that this is not the case in relation to any of the stated impacts and harms. Such a view is supported by the fact that neither of the neighbours have objected to the planning application.
- 4.22 In relation to the alleged loss of light and overshadowing the Council's contention is not based upon any detailed technical assessment of daylight or sunlight loss, but is based upon a subjective view only.
- 4.23 In relation to the above points and also in relation to the allegations regarding overdominance, and visual intrusion as well as loss of outlook, the appeal Inspector will, when making his/her site visit be able to see whether or not those assertions are justified.
- 4.24 It is my view that they are not justified, especially since the Council allows extensions of 3.3m in depth right up to the side boundary of a property with a plot width of 5m only. In this case the plot width of no 39 is 9m approx. and no 37 and 41 have similar plot widths.
- 4.25 The position is even clearer in relation to the alleged effects on no 41 Murray Road. The extension on that side is 1.4m away from that side boundary, is single storey in height and only 3.25m in height. It cannot possibly be reasonably argued that the occupiers of no 41 have suffered a loss of outlook, light, overshadowing and all the other stated reasons/harms.
- 4.26 There are in any case two further points to make here and that is that even in this Conservation Area, the appellants and their neighbours are able to erect 2m high walls or fences along their respective side boundaries.

- 4.27 Secondly in relation to single storey rear extensions it is still possible to erect such extensions in this Conservation Area as permitted development up to 3m in depth and 3m in height up to the side boundary of the property.
- 4.28 The differences here are insignificant – 0.3m further in depth and 0.25m in height from those permitted development limitations/thresholds.
- 4.29 These are lawful ‘fallbacks’ which the Council, and the appeal Inspector must surely take into account when considering the extension as built here.
- 4.30 The appellants understand and accept that the local planning authority is there to administer the planning system in the public interest and to ensure that there is consistency in decision making through planning applications.
- 4.31 However, in this case the appellants believe that the officers have not taken the appropriate position in considering at which point the original dwelling, pre - 1948 existed, and what the depth of the extension is here. Even if the Council’s view is accepted by the appeal Inspector, the actual effects / harms on the ground are not as asserted by the Council in either of the two reasons for refusal.
- 4.32 I have concluded therefore that neither reason for refusal would justify the dismissal of this appeal, and that the development accords with the development plan’s provisions as well as the guidance contained in the NPPF.
- 4.33 I would therefore ask the appeal Inspector to grant planning permission through this appeal, and impose whatever planning conditions he/she considers necessary and reasonable, including a reference to taking on board plan no PL - 002A which is a more recent and accurate plan, as explained in the appellants’ cover letter dated 22nd January 2018.

Chris Watts MRTPI DMS
22nd January 2018.