

OCC, Building
A, 105 Eade
Road, London
N4 1TJ

Email: info@eadeplanning.com

Office: 020 8150 1820

Mobile: 07815 794 958

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

SECTION 78 APPEAL

APPEAL AGAINST A REFUSAL

By the London Borough of Hillingdon

To grant planning permission

For the

“Erection of a ground floor rear extension”

Land at

41 Tollgate Drive

UB4 0NP

By Shulem Posen

Eade Planning Ltd

August 2021

Planning Inspectorate Ref: -----

Local Planning Authority Ref: 67932/APP/2021/2437

Contents

Introduction	Page 2
Site Description	Page 2
The Decision Letter	Page 2
The Delegated Report	Page 3
The Appeal	Page 4
Conclusion	Page 5

Appendices

Appendix 1	The Delegated Report
------------	----------------------

Introduction

1. This is an appeal under Section 78 of The Town and Country Planning Act 1990 (as amended) against the refusal (Ref; 2021/1655) of the LB of Hackney (“the LPA”) to grant permission for ‘Erection of single storey ground floor rear/side extension with sukkah roof.’ (“The Proposal”) at 13 Chardmore Road, London, N16 6JA (“The site/property”). The Plans and Decision Letter are in the bundle and the Delegated Report is attached at Appendix 1.

The Site

2. The property is situated at 41 Tollgate Drive, Hayes, UB4 ONP.
3. Tollgate Drive runs alongside the Grand Union Canal with the houses on the opposite side of the road, fronts facing the canal and the rear gardens at the rear.
4. The property is a three-storey three-bedroom terraced house with the kitchen and living area situated at first floor level.
5. The properties on either side of the No.41 enjoy rear ground floor extensions with sloping roofs. Below is a picture of the rear of the property.
6. The property is not a listed building nor is it within a conservation area.

The Decision Letter

7. On 12th August 2021, under planning Ref; 67932/APP/2021/2437, the LPA

issued a decision refusing the application. One short reason for refusal is given.

1- The proposed extension, by virtue of its failure to maintain an adequate amount of private usable external amenity space for the occupiers of the extended property, would result in an over-development of the site detrimental to the residential amenity of existing and future occupiers. The proposal is therefore contrary to Policies DMHD 1 and DMHB 18 of the Hillingdon Local Plan: Part Two - Development Management Policies (January 2020)..

The Delegated Report

8. The Delegated Report provides the assessment behind the reason for refusal. The report confirms that, save for concerns in respect to outdoor amenity space, there are no other concerns with the proposal.

9. In terms of outdoor amenity space, the report points out that,

Policy DMHB 18 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020) states that all new residential development and conversions will be required to provide good quality and usable private outdoor amenity space. Amenity space should be provided in accordance with the standards set out in Table 5.3: Private Outdoor Amenity Space Standards, which requires 4+ bedroom houses to have at least 100 square metres of private amenity space.

The proposed development would result in only approximately 40 square metres of private amenity space. The limited rear garden area which would remain would be insufficient to serve a dwelling of this size, and would fall significantly short of what is typically required by Table 5.3: Private Outdoor Amenity Space Standards of the Hillingdon Local Plan: Part Two - Development Management Policies (2020). Whilst it is acknowledged that the existing rear garden measures approximately 55 square metres, the proposed development would worsen the situation for the occupiers at the site, especially given the fact that the number of bedrooms and thus potential occupiers, is increasing. The proposal would leave them with an unacceptably small area of private outdoor space. It is considered that the benefits that would be derived from the additional living space would not outweigh this harm.

Having regard to the above considerations, it is considered that the proposal would unacceptably undermine the provision of private amenity space at the site, and would limit the opportunity for general outdoor activity that occupants could reasonably expect with a property of this size and type. The proposal would therefore fail to comply with Policies DMHD 1, DMHB 11 and DMHB 18 of the Hillingdon Local Plan: Part Two – Development Management Policies (2020), in this respect.

The Appeal

10. Table 5.3. provides the standards for outdoor amenity and states that for a houses of 2-3 bedrooms, 60sqm outdoor amenity should be provided, and for a 4 bedroom, 100sqm outdoor amenity should be provided. (This is indeed a high hurdle and a requirement much higher than is required by any other Borough).
11. Policy DMHB 18: Private Outdoor Amenity Space, states,
A) All new residential development and conversions will be required to provide good quality and useable private outdoor amenity space. Amenity space should be provided in accordance with the standards set out in Table 5.3.
12. The policy clearly relates to *new residential development and conversions*, it does not refer to extensions to existing dwellings which are simply aimed at enhancing the existing living accommodation. Nor could the policy sensibly apply to existing dwellings which are for the most built in the first place without the stated outdoor sqm's. This is indeed partly recognised by the officer.
13. It is indeed a material consideration that the LPA have, in July 2011, granted an identical rear extension under planning Ref: 67932/APP/2011/1729.
14. Further, when making the application the applicant, who is a new owner, was not aware of the previous planning granted. He has now contacted the previous owner who has confirmed that he had indeed implemented the previous approval by digging and preparing the foundations. However, following a change of plan, the foundations were filled and covered over with gravel and a wooden decking. It appears that the owner decided to sell before completing the works.

15. This means that in fact, there is an extent planning permission for a three-meter extension. The only difference between what is now proposed is that whilst the extent approval had a slight slope in the roof, the proposed extension will have a flatter roof in line with those at both neighbours. This now forms a fallback position. A statutory Declaration is attached from the previous owner.
16. It is further a material consideration that both neighbours of No.41 have 3m rear extensions. Moreover, 3m rear extensions usually fall within permitted development right that are not controlled by outdoor amenity space. It is highly questionable if a condition removing such rights could be considered reasonable especially considering that 40sqm of outdoor amenity space will be retained, which is considered more than acceptable in other Boroughs. See aerial and rear view below.
17. Furthermore, the appellant really needs the extra living space, and he is happy to forgo his desire of proposing a fourth bedroom but to at least gain the living space. The appeal, therefore, hereby attaches a slightly revised plan. It is appreciated that this plan did not form part of the application bundle, however, given that it only proposes a very minor internal change, and given that it is anticipated that the LPA would have refused this plan as well, it is appropriate and will indeed save much wasted costs and time for the appellant and the inspectorate should another appeal have to be made. Therefore, the appellant asks that the inspector considers this plan.
18. Given that the revised plans are only for a three bedroom house, only 60sqm of outdoor amenity space will be required. This will lessen the short fall.
19. In any event, the appellant reiterates that policy DMHB 18 relates to the creation of new dwellings whether by way of new builds or by conversions.

Conclusion

20. The development provides for a much needed larger family unit, has policy support at National, London and Local level and therefore, the Inspector is therefore, respectfully asked to grant permission on the presumption in favour of sustainable housing development.

