

John Cook Planning Services



Land at 14 Saxony Parade, Hayes

Appeal by Mrs S Shazada against the refusal by the London Borough of Hillingdon to permit a first-floor rear extension; conversion of roof-space to habitable use to include a rear dormer and alteration of roof from hip to gable end

Statement of evidence on behalf of Appellant

April 2022

1. Introduction

- 1.1 Number 14 Saxony Parade is an extended semi-detached two storey house fronting Saxony Parade within a group of similar early 1930's properties. The location of the extension is at the rear of the dwelling
- 1.2 The planning application, reference number 75320/APP/2021/3522, for the '*proposed first floor rear extension*', was submitted 1 October 2021. Planning permission was refused on 4 March 2022 under an unauthorised amended description, using powers delegated to the Planning Officer and for the following reasons:
- '1. *The roof alterations/extensions and first floor rear extension to the dwelling, by reason of the size, scale, bulk, and design, would appear as an insubordinate, and visually incongruous form of development that would fail to harmonise with the architectural composition of the original dwelling and would be detrimental to the character, appearance and visual amenities of the street scene and the surrounding area. The proposal, therefore, conflicts, with Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012), Policies DMHB 11, DMHB 12 and DMHD 1 of the Hillingdon Local plan - Part Two (2020) and Policy D4 of the London plan (2021).*
 2. *The proposed first floor rear extension, by reason of its size, scale, bulk and proximity, would be detrimental to the amenities of the adjoining occupier at No.16 Saxony Parade, by reason of overshadowing, overbearing, loss of light, loss of outlook and creating a sense of enclosure. The proposal, therefore, conflicts, with Policies DMHB 11 and DMHD 1 of the Hillingdon Local Plan: Part Two - Development Management Policies (January 2020).*
 3. *As a result of the development proposal, the residential dwelling would retain inadequate private amenity space provision, giving rise to a substandard form of living accommodation to the detriment of the amenities of future occupiers. The proposal, therefore, conflicts, with Policy DMHB 18 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) and Policy D6 of The London Plan (2021) and the National Planning Policy Framework (2021).'*

2. The Planning Application

- 2.1 The application forms describe the development as comprising a '*proposed first floor rear extension*' and included a completed Certificate A. The extension provides for increased floor area to an existing bedroom and projects some 2.3m from the pre-existing building face linking with the existing first floor extension previously granted planning permission. Minor works to the existing first floor extension, link that extension to that for which planning permission is sought.
- 2.2 The 'existing floor plan' does not suggest that the building has already been extended but by reference to the elevations as shown by drawing HN 112 33 dated 05/07/20 first showing in documentation in association with application reference 75320/APP/2020/2061, see Appendix A, it will be evident that a first-floor extension existed prior to the submission of the application the subject of this appeal, this is acknowledged in the Planning Officer's report. What is also evident is the dormer form constructed under permitted development rights following consultation with the Council's duty officer. Enquiries show that the dormer for was complete prior too seeking the current extension and was therefore a development in its own right. The development to which the current application applies increases the degree of extension to occupy the width of the first floor. At the Applicants' own risk, this work has also been carried out in the reasonable anticipation of the grant of planning permission. Notwithstanding the unilateral decision of the Planning Officer to add the dormer form to the current development, that development had been previously undertaken and completed utilising the permitted development rights available for roof extension being shown present in the elevations, HN 112 004 submitted in the context of the current proposal shows this dormer form and the previously permitted first floor extension. Through the passage of time the application is now for the retention of the additional element first floor rear extension
- 2.3 Materials proposed for the walls would comprise rendered blockwork with concrete roof tiles brown in colour to match the existing walls and roof cladding. Windows would be white Upvc to match existing fenestration.
- 2.4 Mains foul drainage is unaffected by this development. Surface water would be discharged to a soakaway.
- 2.5 The planning application forms were accompanied by the following documents:
- 1) Drawing Number HN/112/41 - Location and Site Plan
 - 2) Drawing Number HN/112/42 - Existing Ground Floor plan
 - 3) Drawing Number HN/112/1/43 - Existing First Floor Plan
 - 4) Drawing Number HN/112/43 - Proposed First Floor Plan
 - 5) Drawing Number HN/112/004 - Existing Elevations
 - 6) Drawing Number HN/112/44 - Proposed Elevations

- 7) Drawing Number HN/112/45 - Proposed Sections
- 8) Drawing Number HN/112/46 - Specification 1
- 9) Drawing Number HN/112/47 - Specification 2
- 10) Drawing Number HN/112/48 - Specification 3

3 The appeal site and surroundings

- 3.1 The plot is roughly rectangular in shape with the semi-detached two storey host dwelling occupying a location set a short way back from the highway. This dwelling has been extended previously (with planning permission) as set out in the officer report and in addition permitted development provisions for roof extensions has been utilised. There is no current garage provision but parking, is located to the front of the building set behind a pedestrian footway. It is not uncommon in the locality for the full frontage to be given over to private parking.
- 3.2 The rear garden is generally flat and, in common with other dwellings in the neighbourhood, there is an outbuilding at the far end of the garden from the dwelling. A number of dwellings have been extended at ground floor and dormer extensions providing additional living accommodation are also evident in the locality.
- 3.3 Side boundaries to the garden are defined by concrete block walls and timber fences.
- 3.4 The site is not designated as a townscape/landscape of specific significance. The site does not fall within a Conservation Area. The area is not evidently subject to an Article IV Direction controlling householder development.

4. Policies

- 4.1 The documents containing policies specifically relevant to this development comprise the following:

The National Planning Policy Framework (NPPF as revised 2019)

Hillingdon Local Plan Part 1 - Strategic Policies (Policy BE1)

Hillingdon Local Plan Part 2 - Development Management Policies (Policies DMHD1, DMHB11, DMHB12, DMHB18)

London Plan (Policies D4 and D6)

5. Grounds of appeal - statement of case

- 5.1 The LPA have in the officer's report identified a range of concerns expressed in three reasons. However, the general argument is that the extension would not be subordinate and would be visually incongruous; that it would be detrimental to the amenities of neighbours by reason of overshadowing, overbearing and a loss of outlook creating a sense of enclosure. It is alleged that the standard of amenity would in fact be substandard with regard to private amenity space provision. These matters addressed below in detail and in policy context.

Response to Reason 1

- 5.2 Reason 1 alleges that the roof alterations and the extensions by size, scale, bulk, and design would not be subordinate and therefore, as a starting point, it must be made clear that the only element legitimately addressed by the application and therefore this appeal, is that of the extension of a single bedroom adjoining the permitted first floor extension. The dormer accommodation satisfies permitted development criteria as set out in Schedule 2, Part 1, Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015 in relation to the enlargement of a dwelling by means of an addition or alteration to its roof. The first-floor extension and associated ground floor extension (that replaced an existing ground floor extension) have planning permission. In this regard much of what would contribute to the overall appearance of the buildings and have the greatest impact upon the architectural composition of the original dwelling, is that which either does not require the submission of a planning application, being permitted development, or is development permitted by the LPA. The very minor addition which is the subject of this appeal, and which visually completes the first floor, has negligible further impact such that the alleged harm and basis for that harm are credible. The roof alterations are addressed in terms of volume and differ from other permitted development criteria for the enlargement of dwellings in this regard. The minor change is unquestionably subordinate to that already present; it is minor to the point of verging on *de minimis*.
- 5.3 The LPA refer to Street Scene and it would be reasonable to consider that the description is somewhat literal and refers to the views from the highway. It is the ethos of the planning system, when addressing permitted developments for extensions (with the exception of porches), to protect views from the highway focussing changes that may be undertaken without the submission of a planning application to the side and primarily to the rear of any dwelling. On this basis and in consideration of the variety of treatments already present to the rear of dwellings on this street, the impact on the street scene is minimal, essentially nonexistent, it has no unsatisfactory impact on visual amenity or the surrounding area.

- 5.4 The area character, appearance and amenity values of the area continues to evolve as extensions continue to be permitted by the LPA and through application of permitted development rights as employed by other householders.
- 5.5 The character of the dwellings in the street is that of semi-detached dwellings with various extensions and outbuildings set to their rear as envisaged as satisfactory in principle by the planning system through its householder provision of permitted development. The development proposed is a minor variation from that allowed whether as permitted development or as development already permitted. Adverse character impact cannot be substantiated.
- 5.6 Arguably the first-floor rear extension previously permitted was less in harmony with the dwelling form standing prominently in the existing form and by 'completing' the first floor element across close to the width of the dwelling an architectural and visual harmony is in fact achieved. Nonetheless the LPA granted permission for this extension. Completing, as it were, the first-floor projection so that it reflected more closely the massing and form of the dwelling is, however, rejected by the LPA as incongruous, a curious distinction that which the LPA has been prepared to accept which is arguably piecemeal.
- 5.7 Policy BE1 (HLP Part 1) addresses the Built Environment with the success of the application of the policy to be assessed by consideration under 5 identified measures, some more evidently relevant to a householder development than others. The policy itself includes 11 elements not all of which apply to the development in question. Clearly elements 3, 4, 5, 6, 7, 8, 9, 10 and 11 do not apply being in relation to matters that do not arise in this proposal. Therefore, in addressing points 1 and 2 the following comment appears relevant.

Point 1 establishes the aim to achieve high quality design, including in the public realm and to enhance the local distinctiveness of the area and contribute to community cohesion and a sense of place. This is a wide-ranging ambition and taking account that even in a Conservation Areas there is a duty to preserve or enhance the character or appearance it may set the bar unreasonably high in the consideration of a very minor domestic extension. The extension proposed will 'complete' the first floor works such that there is an identifiable flow from the roof level down. If the existing first floor extension satisfied this requirement, which from the date of the permission we must assume that it did, then it is not evident how the minor work now proposed would not itself satisfy the policy requirement. It is difficult to imagine how such a minor work would impact community cohesion (at the most basic level it is noted that there is no recorded objection) and such is the appearance of the location that it cannot reasonably be argued that it impacts any sense of place. What may comprise the local distinctiveness of the area making it identifiably different, certainly exceptional in the context of a west London neighbourhood is not readily apparent.

The appeal site is located within a residential area containing primarily semi-detached two storey dwellings with gardens to the rear and off-street private parking and some on street parking with many of the dwellings extended. It is not evident that the built heritage would be noticeably impacted as a result of this very minor development and certainly not to the degree that it was visually incongruous, detrimental to the character, the visual amenity of the street scene, or the surrounding area.

Point 2 is in many ways a restatement of point 1 but with a slightly different emphasis focussing on identity and context with reference to layout, form, scale and materials together with the protection of the amenity of surrounding land and buildings. The layout of the dwelling relative to its neighbours or the land comprising garden does not change as a result of the development. The form is a simple pitched roof extension rounding off the first floor in a manner that minimises direct impact on its adjoining neighbour. It completes the first-floor alteration in visual terms such that its form and scale is satisfactory including cumulatively. Materials match those of the host such that there can be no concern in this regard. There is no evident impact on the wider amenity of the area although, from application of the rule of thumb 45 degree code, there may be a very minor impact on outlook. That this very minimal impact is sufficient to justify refusal is rejected as unsupported by any reasonable evidence.

- 5.8 Policy DMHB 11 (HLP Part 2) addresses the design of new development seeking the highest standards and incorporating the principles of good design. There are four elements to the policy including five criteria in part A. In this regard the works are required to harmonise with their surroundings including consideration of adjacent structures and the Appellant submits that this has been achieved. It is further submitted that that height, mass, and bulk is satisfactory in the immediate and general local context. Clearly the plot size does not alter in any dimension and neither does the extent of coverage as the works are at first floor. There is no change to the street pattern. Although building lines, setbacks and rooflines are unaffected there is a slight change to the streetscape rhythm with the hip to gable arrangement but as a permitted development already undertaken this does not fall to be considered at this time. The quality of detailing is unaffected, there being a general absence and in architectural terms, as already indicted, there is little change from that which either the LPA permitted or over which it chose to have no control i.e. there is no Article IV direction removing the ability to undertake roof alteration or extension. There is no adverse impact on local topography, views into or out of the site other than a very slight reduction from the neighbours' bedroom window over the Appeal site and property beyond. Neighbouring open spaces or their environment are not affected by this development in that there is an absence of such open space.

Criteria ii) considers that materials and finishes should be high quality but as those proposed will match the host, and would be normally present, no variation is justified. Considering criterion iii) and through the greater floor space rooms will naturally lend themselves to alternative functions should that be desirable, in reality, such a requirement is unlikely to be realistic in these domestic circumstances.

Criterion iv) has little impact on the assessment of the suitability of the development. There are no heritage assets, designated or otherwise in the immediate vicinity and in the event that something otherwise unnoticed is present, the small scale, size, and configuration of the development are very unlikely have adverse impact on those assets or their settings. Without disrespect, there are no neighbouring features of positive value to protect.

Criterion v) is simply irrelevant to this development and to this reason.

Part B considers a range of matters that may be said to require technical assessment or at least knowledge of likely impacts. The LPA has not insisted on the provision of such information as paragraph 5.41 of part 2 of the HLP, mentioned in the officer report would suggest was required, neither has the LPA supported its contention of light loss with any calculations of its own. Given the ample opportunity at the time of submission to decide that the application was 'incomplete' in the intervening six months the LPA could have sought this information if considered critical. To simply draw attention to its absence at the time of report writing if the absence had not previously been considered is unreasonable behaviour which the appointed inspector is invited to consider. Bearing in mind that the text advises that 'the Council aim to minimise' rather than prevent absolutely, there should be a degree of consideration and judgement involved in the assessment.

Parts C and D are not relevant to the development proposed.

5.8 Policy DMHB 12 (HLP Part 2) considers streets and the public realm, is in two parts with Part A having some seven criteria.

Part A considers integration with the surrounding area and being accessible. Clearly criterion i) does not have relevance. Arguably, the same may be said of criterion ii), given the location of this very minor extension to the rear of the dwelling where, from examination of the existing character and appearance of the rear gardens, it may be reasonably described as in keeping. There is no impact on the public realm whatsoever, observation is limited to private views and moreover, the extension would be entirely in character, reflecting the quality of the surrounding area. Criteria iii), iv), v), vi), and vii) are not relevant to the proposal.

Part B addresses improvement to the public realm and is, on that basis, again irrelevant. It is not clear that the planning officer has understood the intent of policy and in reading the officer report, where there is discussion of the street scene and elevation imbalance, the latter must surely be tongue-in-cheek given the planning permissions granted for this and development evident in other properties nearby. The inclusion of this policy and the efforts taken to refute its application are a waste of time and respectfully, the appointed Inspector should assess the inclusion of this policy accordingly. The limited explanation of the basis of policy found at paragraph 5.47 of the local plan provides a significant indication of the complete lack of relevance.

- 5.9 Policy DMHD 1 (HLP Part 2) is a wide-ranging policy that includes reference to 'extensions' in general with a subsequent specific reference to 'rear extensions'. Its inclusion with regard to roof extensions is not relevant given that those works did not and do not form part of this application being permitted development.

The section at Part B addresses 'rear extensions' and sets out nine criteria with criteria i) to v) being irrelevant, as these criteria refer to single storey extensions and balconies. The extension is two storey for the purposes of this policy but, as it is not flat roofed, criterion vii) does not apply and neither does criterion ix) as this is not a designated area and does not affect a listed or locally listed building. It therefore falls to consider criteria vi) and viii) and it is evident that, although not containing a window or other opening that would overlook other houses at a distance of less than 21m, there is a window at first floor in the neighbouring dwelling. This criterion will be addressed in the response to reason 2 in matters of impact upon neighbours' amenities as distinct from an areas' amenities, character and appearance. The final criterion to be addressed is viii) which indicates that pitched roofs on extensions should be similar in pitch and materials to the original roof and subordinate to it in design. Although the roof pitch is less than the original it is nonetheless pitched as is desirable and had this been either a separate roof similar to the previously permitted extension with a valley between or a lean-to type form rising towards the base of the windows in the permitted development roof extension, then the impact upon scale size and bulk would have been greater. In the Appellant's view, the form proposed mitigates unreasonable impact, avoids dominance and does not result in demonstrable harm: this approach is promoted as a relevant material consideration.

- 5.10 Policy D4 London Plan expresses the laudable intent of delivering good design, but it is readily apparent that the intent and focus of this policy is not upon minor householder extensions. Beyond the statement of intent, the policy is a makeweight of little relevance.

Response to Reason 2

- 5.11 Whereas reason 1 addresses the visual qualities of the area and the impact that the development would have upon it, reason 2 addresses impact on the amenities of the neighbouring occupiers, specifically those of number 16 Saxony Parade. Notably no objections have originated from the neighbouring address and the works that have taken place or are proposed to retain, do not preclude the occupiers undertaking their own similar extension works. Matters of size, scale, bulk and proximity are identified as giving rise to overshadowing, overbearing, loss of light, loss of outlook and creating a sense of enclosure. As will be immediately evident, in context this proposal is not unduly large, it is appropriate in scale to the extended dwelling as it exists
- 5.12 Policy DMHB 11 (HLP Part 2) addresses the design of new development seeking the highest standards and incorporating the principles of good design. There are four elements to the policy including five criteria in part A. This policy has already been addressed in the context of the wider area. In this reason scale, including height, mass and bulk are to be assessed in terms of alleged adverse impact upon neighbours. Observations therefore examine the cumulative impact together with elements permitted by the LPA or not within its current control. Again, it is necessary to reject the LPA's inclusion of the dormer form in this regard, this was not and is not part of the proposal.

Part A i). Other than with regard to the consideration of scale relative to the adjacent structure, this policy element has no relevance to a neighbour's amenities. It is not apparent that the No.16 has been extended in any way. There is no identifiable planning history and although it is evident that other properties in the locality have been extended, including by flat roofed dormer and hip to gable, there is no evidence available of extensions or alterations with regard to No.16. Bearing in mind that the ground floor extension of number 14 and approximately half of the first floor result from works specifically granted planning permission, the extent to which the limited and minor works extending the first floor bedroom area have negative consequences is also relatively minor. As already submitted, the impact of the development is very minor in terms of scale taking into account the existing extent of change.

Part B is the only element of direct relevance and consideration of scale in this regard suggests that the primary considerations will be with regard to amenity, daylight and sunlight of the adjacent property. The rule of thumb i.e. the 45 degree Rule, identified by the LPA under that heading at parts A1.24 to A1.26 of Appendix A: Householder Development Policies, shows one example each of acceptable and unacceptable development in relation to single storey developments which presumably, from the lack of other commentary, appear equally applicable to aspects of two storey constructions.

It is acknowledged that there is a minor infringement of the 45 degree Rule, it is however, very minor and entirely insignificant. Reliance upon this aspect of policy seems to show a slavish adherence to policy that does not recognise the circumstances of the case or the need to consider each case on its own merit. It is rejected that the development would be overbearing and such overshadowing as might arise, given that the sun rises in the east and sets in the west, is such that, at the time of day that this small section of roof might be expected to make a difference, the existing building mass and that of its neighbour Number 12 would already cast shadow. The impact of the existing expressly permitted first floor extension cannot be dismissed such that overall, the difference in shadow would be marginal and very minor. This was matter capable of resolution during the six months taken to determine this application had the LPA wished to do so but, contrary to implied cooperation set out in part 2 of the informatives, page 2 of the decision notice, this did not occur. Based upon past performance by the LPA, particularly with the lack of cooperation a householder appeal process is anticipated as taking less time to resolve than a resubmission. Of note, the LPA describes in this element of policy 'open space' rather than garden.

It is not evident that parts C) or D) apply to this proposal.

- 5.13 Policy DMHD 1 (HLP 2) As identified in the context of reason 1 for refusal, this policy has a number of elements and addresses in general the principles of extension together with a specific reference to rear extensions. Addressing issues arising from reason 2, it is submitted that there is negligible impact on the adjoining property with no evidence produced or requested to be produced to address the issue leaving the matter subjective. The policy includes a number of sections both general and specific with part A setting out, under criterion ii) that extensions should have a 'satisfactory' relationship with adjacent dwellings. Little of what follows in the general comment has relevance in the context of matters raised in Reason 2 other than criterion v) which addresses 'unacceptable loss of outlook' although how this is defined is not established and puzzling given that the 45 degree code is raised under Part B. Much of the policy addresses issues already addressed under Policy DMHB 11 (HLP Part 2).

Turning to Part B, 'Rear extensions' the issues raised in Reason 2 are perhaps only considered in criterion vi) and then only with regard to outlook/loss of light. As already set out, while acknowledging that there would be some impact, the degree of impact is rejected as meaningful in this instance. A sense of enclosure is hardly likely to arise given such a minor infraction and evidently the neighbour concerned does not share the LPA's opinion given the complete absence of representation.

Response to Reason 3

- 5.14 The basis for reason 3 is not simply flawed but ridiculous. The development which is legitimately to be considered, does not increase the number of bedrooms but simply increases the size of one bedroom. Any increase in the number of rooms and thus demand for amenity space might arise from the roof extension/conversion which is permitted development and not within the LPA control. There is no increase in building footprint such that the available amenity space is diminished and, given that there is no Article IV direction with regard to outbuildings or roof extensions, the inclusion of this reason is farcical.
- 5.15 Policy DMHB 18 (HLP 2) This policy concerns solely the provision of 'Private Outdoor Amenity Space'. Given that it applies to 'all new residential development and conversions' its application to the extension of an existing bedroom is questionable. The explanatory text to the policy includes a table identifying a ratio of bedrooms numbers in relation to amenity space to be read in association with Part A. Noticeably absent is a ratio of dwelling footprint to outdoor space to which national space standards might reasonably be a general indicator with regard to dwelling size. While outwardly a relationship between accommodation and outdoor space is established, it can only again be emphasised that the development for which planning permission is sought does not increase the number of bedrooms present and accordingly the policy is not relevant to the development actually proposed. Parts B) C) and D) do not apply.
- 5.16 Policy D6 London Plan This policy considers housing quality and standards and it is not evident that beyond a series of general statements that other than the section titled 'Private Outdoor space' this policy provides particular guidance with regard to the issues raised in Reason 3. The guidance, with regard to outdoor amenity space relative to the number of persons to be accommodated, sets out that 5sqm is required for a 1 to 2 bedroom dwelling with 1 sqm for each additional occupant. Based upon the available area of some 74 sqm a significant number of persons could be accommodated while meeting this standard. These standards apply where a Borough has not adopted its own higher standard and in that regard Policy DMHB 18 appears the relevant and only policy to be considered and as already set out. Again, it should be noted that there is no control over permitted development rights that would see a reduction on the area occupied by outbuildings and that the roof conversion extension falls beyond the LPA's control. It might be reasonable to ask why a disparate relationship of amenity space to bedrooms is included in documents that should be read together and why there should be such a significant difference in requirements.

6. Comments of third parties

- 6.1 Neighbours to the site have been consulted but did not respond with representations.

7. Summary

- 7.1 It has been established in this evidence that the development described by the planning application is in keeping with its surroundings. It would have no adverse impact on the visual or other amenities of the area. Furthermore, the amenities enjoyed by the adjoining occupiers will not be adversely impacted to the degree that planning permission should be refused.
- 7.3 The development is minor and well considered in context and design and incorporates appropriate materials. Suitable conditions can be imposed to ensure future control and safeguards to privacy i.e that no windows should be introduced into the side elevations unless fixed and obscure.
- 7.4 The development proposed is in accordance with policy as set out in the Development Plan and the National Planning Policy Framework. Accordingly, the appointed Inspector is requested to allow this appeal and grant planning permission.

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