



Appeal Decision

Site visit made on 14 November 2011

by Michael Evans BA MA MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 November 2011

Appeal Ref: APP/N5090/D/11/2162742
37 Dukes Avenue, London N3 2DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Shabir Khamisa against the decision of the Council of the London Borough of Barnet.
 - The application Ref F/03104/11, dated 20 July 2011, was refused by notice dated 19 September 2011.
 - The development proposed is the construction of a single storey rear extension, the enlargement of a balcony and the installation of rooflights.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The proposal can most appropriately be described as given in the header above and it is on the basis of this description that the appeal will be considered.

Main Issue

3. The main issue in the consideration of this appeal is the effect on the living conditions of the occupiers of the adjacent dwellings with regard to overlooking and privacy.

Reasons

4. The single storey rear extension would enable the depth of the existing balcony to be increased, which would match that at no. 35. There is already potential for significant mutual overlooking between the balconies at the neighbouring property and the appeal site, which would not be significantly changed as a result of the proposal.
 5. However, the greater depth and resultant position of the additional external amenity space would enable particularly intrusive overlooking into the first floor bay window of the bedroom at the adjacent dwelling at 39 Dukes Avenue. The perimeter railings would not significantly restrict this due to their fairly modest height and transparent nature. Moreover, this overlooking and associated undue loss of privacy would occur at an unacceptably close proximity. The
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- width of the additional area would be the same as that of the existing balcony and sufficient for it to comprise useable external amenity space. As a result it would not be unduly narrow and this consideration would not significantly limit the adverse impact.
6. This problem would not be addressed by the Council's suggested condition which would merely prevent the rest of the flat roof of the single storey extension being used as a balcony or similar space. Consequently, it is concluded that the living conditions of the occupiers of the adjacent dwelling at no. 39 Dukes Avenue would be harmed. This is contrary to London Borough of Barnet Unitary Development Plan, Adopted May 2006, Policy D5, which requires new developments to be designed to allow adequate privacy for adjoining occupiers.
 7. It is accepted that there are other rear balconies in the vicinity. However, this proposal concerns the enlargement of a balcony rather than the principle of such a feature. Although that at no. 35 would have a similar length, many of the others are not as long as that now proposed. It is also the case that many properties in the vicinity do not have such features, as at no. 39. The overlooking resulting in this instance would also be additional to that already occurring in relation to existing balconies. In any event, the full details and background of these other sites have not been provided so that no meaningful comparison can be made with the current proposal, which must be considered on its own merits. The presence of other balconies does not therefore justify permitting the proposal.
 8. There is sufficient clear glazing to the rear of the adjacent conservatory at no. 39 so that the impact in relation to the obscure glazed windows to the side would not be significant. The part of the addition next to no. 39 would not extend beyond the end of the conservatory. Because of this and the relatively modest height it would not appear intrusive from the neighbouring house or result in an undue loss of light. On the other side, the addition would not project beyond the end of that at no. 35. This would be sufficient to ensure that the extension did not project unacceptably to the rear. These matters would not justify rejection of the appeal but the concern of the resident of no. 39 in relation to loss of privacy is well founded for the reasons given above.
 9. It is acknowledged that the proposal was refused planning permission contrary to the officer recommendation. However, this is not a factor that confers acceptability and does not, in itself, have any bearing on the planning merits of the scheme. The proposal is acceptable in relation to the effect on the character and appearance of the area and would result in improved accommodation. However, none of the above, or any other matter raised, would justify permitting a proposal that would unacceptably compromise the privacy of occupiers of the adjacent dwelling. It is therefore determined that the appeal fails.

M Evans

INSPECTOR