
Appeal Decision

Site visit made on 28 September 2016

by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA

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

Decision date: 30 September 2016

Appeal Ref: APP/T5150/D/16/3154680

1 Ilmington Road, Harrow, London HA3 0NQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Mohammed Al-Hilli against the decision of the Council of the London Borough of Brent.
 - The application Ref 16/2274, dated 26 May 2016, was refused by notice dated 13 August 2016.
 - The development proposed is described as prior approval for a single storey rear extension to dwellinghouse, in metres: Extending beyond the rear wall of the original house - 8m Maximum height - 3.3m. Eaves height - 3m. 2m setback from boundary to prevent any loss of light to neighbouring property.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. In the application form the maximum height of the proposed extension, measured externally from the natural ground level, is given as 3.7m but on the submitted plan it is shown as 3.3m. The appellant has since clarified that the correct maximum height is that shown on the submitted plan 3.3m. I have altered the description of the proposed development in the banner heading above accordingly.

Background and Main Issues

3. The main issues are
 - a. whether the development is permitted development under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO); and
 - b. the effect of the proposal on the living conditions of the occupiers of adjoining properties.

Reasons

Whether permitted development

4. The appeal property is a detached dwellinghouse on the east side of Ilmington Road in a residential area. For detached properties such as this the GPDO permits, subject to conditions and where necessary prior approval, single
-

storey rear extensions up to 8m in length and 4m in height. The Council disputed that the proposed extension was permitted development on the grounds of the lack of clarity in the application as to the maximum height of the extension. As I have indicated, that matter is now resolved.

5. A deemed condition for any approval to these types of extensions is that the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. The Council says that as this information has not been provided, it has not been demonstrated that the proposal complies with this condition, therefore it is not permitted development.
6. The Council refused the application under sub-paragraph (a) of Paragraph A.4(3) of Class A, Part 1, Schedule 2 to the GPDO ("the proposed development does not comply with...the conditions, limitations or restrictions applicable to development permitted by Class A which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g)").
7. The requirement for matching materials is a condition deemed to apply to the permitted development by virtue of Paragraph A.3(a). It does not however require, as may be the case with other conditional permissions granted outside the GPDO, details of the materials to be submitted for approval before development commences.
8. Under the condition set out in Paragraph A.3(a) the materials will either match or they will not in which case the Council will have enforcement remedies. It is not suggested that other than matching materials would be used so it does not follow that there is a failure to comply with the condition. The refusal of the application under sub-paragraph (a) of Paragraph A.4(3) is therefore not upheld and the proposed development is not, on this ground, excluded from being permitted development.

Living conditions

9. The Council notified adjoining owners and occupiers of the proposed development as required under the GPDO, Paragraph A.4(5) of Schedule 2, Part 1, Class A. As an objection was received, prior approval is required as to the impact of the proposal on the amenity of any adjoining premises, taking account of the representations received.
10. An existing single storey rear projection would be replaced with a single storey addition 8m deep, partly set in 2m from the boundary with No 3 Ilmington Road. The first 5m or so of depth would be tight up to the boundary of No 3.
11. There is some vegetation on the boundary between the two properties that reaches a height comparable with the proposed extension, however it is very sparse and the built form would extend above the normal height of the hedge/fence by a reasonable amount. This would have a significantly overbearing effect on the living conditions of neighbouring occupiers and would be especially noticeable within the room adjacent to the proposed extension and in the area immediately outside. It would thus create an undesirable sense of enclosure and loss of outlook.

12. The Council has not demonstrated how loss of light would occur due to the extension but from what I have seen it is likely that there would be some overshadowing of the garden area of No 3 which adds to my concerns.
13. No objection was made by the occupiers of No 3. However this does not in itself weigh in favour of the proposal: the planning system works in the wider public interest such that the effect of new development on future as well as present occupiers of affected property must be considered.
14. The rear garden boundaries of Nos 11 to 17 (odd) Ebrington Road abut the southern boundary of the appeal property.
15. The proposed extension would span the width of the rear garden at 11 Ebrington Road and have a window facing that garden. However the garden is considerably long at about 28m, there would be a gap between the new extension and the boundary with No 11 and furthermore there is a boundary fence about 2m high between the properties. I doubt whether the new opening would result in any significant loss of privacy but any concerns could be resolved by a condition requiring it to be wholly or partially obscurely glazed.
16. The owner of No 11 objects to the view within her property being replaced with that of the new extension, however loss of view is not a planning matter. In terms of loss of outlook and privacy I am satisfied from what I have seen and read that the separation distances involved would not result in unacceptable detriment to living conditions enjoyed by occupants of No 11. Allegations of noise nuisance emanating from occupants of the host dwelling, which I saw had clearly been vacant for some time, are not matters relevant to the appeal.
17. Of the other adjoining properties Nos 13, 15 and 17 Ebrington Road have long rear gardens comparable to that of No 11. The new extension would not have an overbearing impact or unacceptable loss of light or outlook on these properties. Similar considerations apply to 12 Mountington Park Close which shares a rear boundary with the rear of the appeal property.
18. Consequently the proposal would not have an unacceptable effect on the living conditions of the occupiers of most of the properties adjoining No 1 Ilmington Road, however it would have such an unacceptable effect on the occupants of No 3. As such it would not comply with paragraph 17 of the National Planning Policy Framework which seeks a good standard of amenity for existing occupiers of land and buildings.

Conclusion

19. For the above reasons and having carefully considered all other matters raised the appeal is dismissed.

Grahame Kean

INSPECTOR