
Appeal Decision

Site visit made on 27 September 2016

by J C Clarke BSc(Hons) BTP MRTPI

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

Decision date: 25 October 2016

Appeal Ref: APP/T5150/D/16/3152234

15 Nathans Road, Wembley HA0 3RY

- 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, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Ms Yasmin Pathan against the decision of the Council of the London Borough of Brent.
 - The application Ref 16/0793, dated 22 February 2016, was refused by notice dated 4 April 2016.
 - The development proposed is a 6 metres deep and full width single storey rear extension with sloping roof of maximum 4 metres height and eaves height to be 2.8 metres.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)(the 'GPDO'), certain types of extension to a dwellinghouse may be undertaken without needing a specific planning permission from the local authority. These Class A 'Permitted Development' rights are subject to the limitations in Class A.1(a) to (k) inclusive of the GPDO.
 3. The proposed extension which is subject to appeal would exceed the limitations in Class A.1(f) but fall within those set by Class A.1(g). As required under paragraph A.4(2) and A.4(5) of the GPDO respectively the developer submitted information about the proposal to the Council and the Council notified the occupiers of neighbouring premises. As the occupier of 17 Nathan Road submitted an objection to the proposal, under paragraph A.4(7) of the GPDO the prior approval of the Council is required as to the impact of the proposed development on the amenity of any adjoining premises.
 4. Paragraph A.4(9) of the GPDO confirms that, in considering the impact of the proposal, the Council had to (a) take into account any representations received and (b) consider the amenity of all adjoining premises, and not just adjoining premises which are the subject of representations. The GPDO required the Council to assess the proposal solely in relation to these matters. I have determined the appeal in the same manner. As the Council's reason for refusal
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focusses upon the effect of the proposal on the amenity of occupiers of 13 Nathans Road, this matter forms the basis of my main issue.

Main Issue

5. The main issue is the effect of the proposed extension on the amenity of adjoining premises at 13 Nathans Road.

Reasons

6. The appeal dwelling and 13 Nathans Road form a pair of semi-detached houses, the rear elevations of which are located in line with each other. Whilst number 13 has a small single storey outrigger projecting out from its rear elevation this is located away from the boundary with the appeal property. Number 13 Nathans Road has habitable room windows in its rear elevation, one of which is located at ground floor level very close to the boundary with the appeal property. The boundary itself was marked by a timber fence of about 1.5 metres in height at the time of my site visit.
7. The proposed extension would project outwards from the rear elevation of the appeal dwelling by 6 metres and one of its side walls would run for this distance immediately alongside the boundary with 13 Nathans Road. Whilst the submitted details do not show the elevations of the proposed extension, they confirm that it would have a 'sloped roof' which would be 4 metres in height and have an eaves height of 2.8 metres. This means that its side wall facing number 13 would be between 2.8 and 4 metres in height.
8. Having regard to these points, the proposed extension would form a dominant structure which, due to its bulk, length and massing, would severely constrain the breadth of outlook from the nearby rear facing ground floor habitable room window and adjacent part of the garden within number 13. As a result it would cause substantial harm to the level of amenity which could reasonably be expected within this neighbouring property.
9. I acknowledge that the occupier of 13 Nathans Road has confirmed that he has no objections to the proposal. However, the lack of such an objection does not indicate a lack of harm to amenity. This is recognised in the requirement of paragraph A.4(9) of the GPDO that the amenity of all adjoining premises must be taken into account and not just those which are subject to representations. In addition, the Appellant's confirmation that he does not intend to insert any windows in walls facing neighbouring properties would not ameliorate the overbearing effect that the proposal would have on the amenity of occupiers of 13 Nathans Road.
10. I also note that the proposal would help the Appellant to accommodate his mother on the ground floor of the appeal dwelling and that the medical records which have been submitted in support of the proposal confirm, for example, that the Appellant's mother would benefit from not being required to climb stairs. I also acknowledge that the Appellant has made efforts to find alternative ways to accommodate the needs of his mother and has had a mortgage application refused in relation to a property which has a ground floor bathroom and bedroom. However, the refusal of such a mortgage offer could be for any of a number of reasons and does not demonstrate that all alternative means to accommodate his mother's needs have been exhausted. Personal needs are also not identified in the GPDO as matters which I may

consider and these points do not outweigh the harm that the proposal would cause to the amenity of the occupiers of 13 Nathans Road.

11. I note that objections were received from the occupiers of 17 Nathans Road, from which the appeal dwelling is separated by a fairly narrow shared driveway.
12. Number 17 Nathans Road has an existing single storey rear extension which projects out from its rear elevation by about 3.5 metres. Due to the relative positioning of the dwellings and this rear extension the proposal would not cause any substantive effect on the main front or rear facing outlook from number 17. Whilst the proposed extension would be quite close to two kitchen windows within number 17 which face towards the appeal premises, given that these are side facing windows which do not provide the main source of outlook for number 17, any effect on the outlook from these would not be sufficient to cause material harm to amenity levels within number 17 as a whole.
13. I also agree that the proposal need not if suitably designed harm the privacy of the occupiers of number 17 and would not cause material harm in relation to the other matters raised in their objection. It would also not, having regard to its location, harm the amenity of occupiers of the premises to the rear located off Langham Gardens.
14. This lack of substantive harm to the amenity of the occupiers of other properties does not, however, outweigh the harm that the proposal would cause to the amenity of the occupiers of 13 Nathans Road.

Conclusion

15. For reasons which are set out above, I conclude that the proposal would cause substantive harm to the amenity of the occupiers of 13 Nathans Road which would not be outweighed by any other matter. I therefore dismiss the appeal.

Jonathan Clarke

INSPECTOR