
Appeal Decision

Site visit made on 20 June 2017

by Janet Wilson BA (Hons) BTP MRTPI DMS

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

Decision date: 27 July 2017

Appeal Ref: APP/M5450/D/17/3172373
163 Torbay Road, Harrow HA2 9QF

- 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 Tuncer Kussan against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/5418/16, dated 3 October 2016, was refused by notice dated 14 February 2017.
 - The development proposed is a single storey rear extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the living conditions of the occupants of 165 Torbay Road (No 165), with particular regard to daylight and outlook.

Reasons

3. The current outlook from No 165 towards the appeal site is to the solid wall of an existing extension on the appeal property that projects from the rear elevation by 3 metres. The proposal involves increasing the depth to 4.2 metres together with a marginal increase in the height. No 165 is already enclosed to some extent by the extension at 167 Torbay Road.
4. The proposed increase in height and depth of the extension at No 163, and its location to the south, would materially affect the living conditions of the occupants of No 165 by further enclosing the space outside their living rooms causing additional loss of light and diminishing their outlook.
5. The proposed extension would not accord with the guidance contained in the Supplementary Planning Document: Residential Design Guide 2010 in relation to extensions that exceed permitted development limits. It would project further into the garden area than would be acceptable on a terraced property and for the reasons given above would cause a harmful impact.
6. The Council have referred to Policy 7.4 B of the London Plan and Policy CS1.B of the Harrow Council Core Strategy, however these policies relates to local character and as this is not a substantive matter in the Councils decision those particular policies are not relevant to my decision.

7. Nonetheless, the proposal would fail to achieve satisfactory living conditions for neighbouring occupiers and would conflict with: Policy 7.6 B of the London Plan - The Spatial Development Strategy for London Consolidated with Alterations since 2011 (2016); Policy DM1 of Harrows Development Management Policies Local Plan 2013 in so far as they relate to the protection of residential amenity. As these policies generally accord with the requirements of the National Planning Policy Framework I afford them considerable weight.

Other Matters

8. The appellant has stated that the effect of the harm is a subjective judgement and the proposal hinges on the impact of just 1.2 metres by 1.0 metres of the extension as this is what would be visible of the enlarged extension above the boundary fence; he also comments that the application of the policy by the Council is overzealous. Planning judgements by their very nature are subjective but they are also taken against the context of established policy, published guidance and the wider Framework. I have found that the further enclosure of the space immediately outside the rear of No 165 would result in loss of light and an overbearing impact which would be harmful to the living conditions of the occupants of No 165 contrary to policy, guidance and the Framework.
9. The appellant further suggested that the majority of houses in the locality have been extended and modified over time and that in theory No 165 could also be extended. It was therefore argued that it is unreasonable to fetter a modest extension when the neighbouring property could be extended at any time. However, there is no evidence before me of any intention to extend No 165 and no guarantee that it would be constructed even if it had been contemplated by the neighbour; this does not alter my findings.
10. Further comment draws attention to the fact that there has been no objection to the development from the neighbour. That may be so, but lack of objection cannot be interpreted as the occupants considering that the impact is not significant. In any event, the impact on current and future occupiers needs to be considered and the lack of objection does not diminish the harm that I have identified.

Conclusion

11. For the reasons I have set out above and having considered all matters raised I conclude that the appeal should be dismissed

Janet Wilson

INSPECTOR