
Appeal Decision

Site visit made on 19 November 2019

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2019

Appeal Ref: APP/M5450/D/19/3236735

13 Lange Road, Harrow HA2 6FB

- 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 Ibrahim Ansari against the decision of the Council of the London Borough of Harrow.
 - The application Ref: P/2836/19, dated 25 June 2019, was refused by notice dated 20 August 2019.
 - The development proposed is described as a conservatory to rear of garden.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the development upon the living conditions of the occupiers of the property, with particular reference to the provision of an appropriate private garden;
 - the effect of the development upon the living conditions of the occupiers of neighbouring properties, with particular reference to the occupiers of 11 and 15 Lange Road; and
 - if any harm is caused in respect of the above issues, whether such harm is outweighed by the personal circumstances relating to the occupiers of the appeal dwelling.

Reasons

Garden size

3. The property consists of a mid-terraced, two-storey dwelling located within a residential area. The property contains a garden to the rear, which also features a shed. There is a gate within the rear boundary fence which also provides access to the garden with a path leading to the rear elevation of the dwelling.
4. The proposed conservatory would project from the rear wall of the dwelling by a distance shown on the submitted plans as being 3 metres. It would also have a notable width, with only limited setbacks from the side boundaries.

5. Owing to the limited size of the garden, the proposed conservatory would therefore take up a significant proportion of the available area. In consequence, the amount of space available for residents of the dwelling to have sufficient room for the carrying out of outdoor recreation, in addition to the undertaking of household tasks, such as the drying of washing would be significantly diminished.
6. This is of concern as the rear garden represents the only private space where such activities might take place. I have also noted that the available space within the garden has already been diminished by the presence of a shed near to the rear boundary and the path leading from the rear gate. In consequence, it is likely that the development would prevent suitable opportunities for activities, such as outdoor recreation to take place.
7. I have given some consideration to the possibility of the shed being removed. Whilst this would result in more space within the garden being made available, the footprint of the shed is relatively small. In consequence, the overall increase in garden space would be comparatively minor and therefore would not outweigh the harm as previously identified.
8. There is some debate as to whether a conservatory is classified as a habitable room. Even if I were to conclude that this was not the case, there would be a significant harmful impact on the current and future occupiers of the dwelling owing to the loss of a notable proportion of the rear garden.
9. In reaching this view, I have had regard to the possibility that the conservatory might serve as a replacement area for some activities that might otherwise be carried out in the rear garden. Whilst this might be the case, it could not serve as a venue for all displaced activities, such as outdoor play.
10. I therefore conclude that the proposed development would fail to provide adequate living conditions for the current and future occupiers of the property. The development, in this regard, would therefore fail to accord with the requirements of Policy 7.6B of the London Plan (2016) (the London Plan); Policy CS1(B) of the Harrow Core Strategy (2012) (the Core Strategy); Policy DM1 of the Harrow Development Management Policies Local Plan (2013) (the Local Plan); and the Residential Design Guide Supplementary Planning Document (2010) (the SPD).
11. These policies, and the SPD, seek, amongst other matters, to ensure that new developments maintain adequate garden space; have appropriate space around buildings as a resource for occupiers; provide high quality outdoor spaces; respond positively to the local context; and have a high standard of layout

Impact on neighbouring properties

12. The dwelling is in a terrace and adjoined by 11 and 15 Lange Road. These dwellings are of similar proportions, although the rear elevation of No. 15 is set backwards from the terrace. These dwellings on the ground floor of the rear elevation feature a window and a large, glazed door. The side boundaries between the three properties are marked by low wooden fences.
13. The proposed conservatory would encompass a relatively large proportion of the appeal site's rear garden. Owing to this and the proximity of the conservatory to the side boundaries, the proposed conservatory would have a

- notable enclosing and overbearing effect upon the adjoining rear gardens. This would lead to a loss of their more open character.
14. In addition, the current side boundaries of the appeal site are marked by low wooden fences. This means that the proposed conservatory would be very visible from the neighbouring properties as the boundary treatment would not offer a significant screening effect. The consequence of this is that the enclosing effect of the proposed conservatory would be amplified.
 15. The glazed doors and windows of the neighbouring dwellings are in proximity to the side boundaries. In consequence, the conservatory, owing to its siting and proportions, would result in a notable loss of outlook for the occupiers of the adjoining dwellings. Whilst I understand that these doors and windows may only serve one room, the enclosing effect on the closest apertures is likely to be significant and therefore the layout of the adjoining dwellings would not overcome the previous concerns.
 16. I have also noted that No. 15 features a ground floor side window. However, this is relatively small in size and therefore does not offset the loss of outlook and the enclosing effect to the rear glazed doors and windows.
 17. These adverse effects would be particularly notable for the occupiers of No. 15. As discussed, the rear elevation is set backwards from the rear wall of the appeal site and No. 11. Therefore, when viewed from No. 15, the proposed conservatory would have a notable cumulative adverse effect on the occupiers of this property as it would be sited in addition to an existing two-storey side elevation.
 18. I have had regard to the appellant's intention to construct the conservatory with glazed walls. However, even if it were to be constructed in this manner, a structure would be perceptible when viewed from the neighbouring properties. This would result in an enclosing effect. Furthermore, it can be reasonably anticipated that the proposed conservatory would require a system of solid supports with the elevations, which would give the conservatory a notable mass.
 19. As a result, I conclude that the proposed conservatory would have an adverse effect on the living conditions of the occupiers of Nos. 11 and 15. The development, in this regard, would fail to comply with the requirements of Policy 7.6B of the London Plan; Policy CS1(B) of the Core Strategy; Policy DM1 of the Local Plan; and the SPD. These policies, and the SPD, seek, amongst other matters, to ensure that new developments do not harm the living conditions of the occupiers of neighbouring properties and respond to local context in terms of spacing.

Planning balance and personal circumstances

20. I have carefully considered the reasons why the appellant has applied for planning permission for the proposed development. Given the nature of the information before me, as part of the appeal documentation, it would not be appropriate for me to outline the specific reasons why planning permission was applied for. Nonetheless, I have no doubt that the proposed conservatory would result in improved conditions for the appellant's family. These are personal circumstances to which I attribute weight in favour of the appeal.

21. In weighing the personal circumstances in the planning balance, this must be considered against the very significant effect that the proposal would have on the living conditions of Nos. 11 and 15. Furthermore, the proposal would result in a dwelling that would be significantly deficit in outdoors private garden space.
22. I have had due regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010, which specifies the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act 1998, which requires that decision makers to have due regard to Human Rights and any protected characteristics in making a decision.
23. In respect of the above, a refusal of planning permission is a proportionate, and necessary approach to the legitimate aim of ensuring that the existing and future living conditions of the occupiers of the appeal site and neighbouring properties can be reasonably safeguarded. Furthermore, the protection of the public interest cannot be achieved by means that are less interfering of the family of the appellant's human rights. Therefore, whilst I acknowledge the personal circumstances of the appellant's family, I conclude that this is not a matter that outweighs the harm that would be caused by the proposed development in respect of my previous conclusions on the other main issues.

Other Matters

24. My attention has been drawn to a conservatory elsewhere within the vicinity. However, as I do not appear to have been provided with details regarding the address of the property, or full information regarding the planning circumstances of this development I have been unable to attach significant weight to this development. I have therefore determined this appeal upon its own individual merits.
25. I acknowledge concerns raised by the appellant that the builder of the dwelling, and wider development, indicated that the construction of a conservatory at the property might be possible. However, in deciding this appeal, I have limited my considerations to the planning matters before me.

Conclusion

26. For the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR