
Appeal Decision

Site visit made on 25 August 2020 by Ifeanyi Chukwujekwu BSc MSc MIEMA CEnv AssocRTPI

Decision by Kenneth Stone BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 September 2020

Appeal Ref: APP/T5150/D/20/3250514

9 Berens Road, London NW10 5DX

- 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 David O'Brien against the decision of the Council of London Borough of Brent.
 - The application Ref 19/4115, dated 19 November 2019, was refused by notice dated 14 January 2020.
 - The development proposed is single storey rear infill extension.
-

Decision

1. The appeal is allowed, and planning permission is granted for construction of a single storey rear infill extension at 9 Berens Road, London NW10 5DX in accordance with the terms of the application, Ref 19/4115, dated 19 November 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: ST_16_Berens_ext_plan_00 (Site and location plan), ST_16_Berens_ext_plan_01 (Existing plans, sections and elevations) and ST_16_Berens_ext_plan_02 (Proposed plans, sections and elevations).
 - 3) The external surfaces of the development hereby permitted shall be constructed in materials to match those used in the existing building.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues are the effect of the proposal upon: 1) the character and appearance of the host dwelling and surrounding area, and 2) the living conditions of occupants of 11 Berens Road, with particular reference to outlook.

Reasons for the Recommendation

Character and appearance

4. No. 9 is a mid-terraced two-storey dwelling with a two-storey rear outrigger, located at Berens Road in the Kensal Green area of London. The surrounding area is residential and is characterised by terrace blocks of two-storey dwellings with enclosed, compact gardens at the rear.
5. Brent's Supplementary Planning Document 2: Residential Extensions and Alterations (2018) (the 'SPD') recommends heights of 3 metres where the proposed infill meets the wall of the host dwelling and 2 metres at the boundary. The proposal would have a height of 3.1 metres where the proposed infill meets the wall of the host dwelling and 2.5 metres at the boundary. The SPD provides guidance for extensions; however, it is not policy although due regard should be given to it. The difference in dimensions between dimensions of the proposal and that recommended by the SPD is marginal. As such, it is not considered that the proposal would be at a scale which would not complement the locality. The breach is minor and not sufficient reason to consider that there is conflict with policy DMP1 of the London Borough of Brent, Development Management Policies (DMP) (2016).
6. The appellant has also provided evidence of similar schemes which have been granted approval within the area namely at nos. 21 and 25 Berens Road and 53a Pember Road. Whilst each application and appeal are determined on its own merits and precedence does not justify harmful development, the existence of such schemes demonstrates that they are not alien to the character of the area. Differences in dimensions are marginal with two of the examples having more depth than is proposed at the appeal site. Thus, the proposal would be relatively of the same scale as those existing in the area and would not be overly prominent. Thus, it would not conflict with policy CP17 of Brent's Core Strategy (2010).
7. Furthermore, both the Council and the appellant have referred to both a Prior Approval not required¹ and a Certificate of Lawfulness² which are of similar design and scale with the proposal. The Council considered these were within the parameters of the matters they were able to consider in granting the Certificate of Lawfulness as well as stating that prior approval was not required.
8. The proposal differs from the approved scheme in depth. It would measure 7.25 metres, as compared with a 6 metres depth for the scheme granted a Certificate of Lawfulness and determined prior approval not required. Even the Council suggests in its delegated report that this depth is likely to be acceptable, if the height at the boundary were reduced to 2 metres. Again, the difference is marginal and is not considered would materially change the appearance of the proposal from that previously considered to such an extent that it would be contrary to the character of the host dwelling and visually harmful. The reduction of garden space would also be marginal.

¹ Ref 19/1812

² Ref 19/2383

9. The Council contends that the proposed single storey rear infill extension in combination with a proposed side dormer to the outrigger at the rear which would not be subordinate in scale to the host dwelling and would dominate the rear of the property. This proposal was refused by the Council and has also been subsequently dismissed at appeal³. As such, there would be no cumulative effect.
10. I find that the proposal would not, by reason of its design, size and siting appear overly prominent, out of place, and detrimental to the character and appearance of the host property and surrounding area. Accordingly, I find no conflict with Policy DMP1 of the London Borough of Brent, Development Management Policies (DMP) (2016) and policy CP17 of Brent's Core Strategy (2010) which require, amongst other things, development to be of a design and scale that complements the locality and that development of garden space and infilling of plots are not with out-of-scale buildings that do not respect the setting of the existing dwellings.

Living conditions at no. 11 Berens Road

11. I observed on my visit to the site that the neighbouring property, No. 11, has two first-floor windows on the rear outrigger which have obscured glazing. There are also ground and first-floor windows on the main rear wall which serve habitable rooms.
12. As previously stated above, the depth of the proposal would marginally increase from dimensions for a proposal that was granted a Certificate of lawfulness. This increase in depth is not considered of such an additional dimension as to amount to a feature which would be overly dominant and overbearing.
13. It is unclear how the additional depth of 1.25 metres would contribute towards the loss of light at no.11, as the Council has not provided any evidence of any maximum degree angle between the building line and the nearest habitable window at no.11 which would be breached by this marginal increase. Also much of the effect on these windows would also occur with the implementation of the proposals which are lawful or permitted development.
14. I find that the proposal would not result in an unduly detrimental loss of outlook, overbearing impact and unacceptable sense of enclosure to the adjoining property and their garden at No. 11 Berens Road, to the detriment of the living conditions of the occupants of this property. Accordingly, I find no conflict with Policy DMP1 of the London Borough of Brent, Development Management Policies (DMP) (2016) which require, amongst other things development to maintain high levels of amenity.

Conditions

15. In addition to the standard time limit condition a condition is necessary to ensure that the proposed development is carried out in accordance with approved plans, in the interests of clarity. It is also necessary to attach a condition to ensure that the materials used match those on the original property in order to ensure a satisfactory appearance.

³ Ref APP/T5150/D/19/3240577

Conclusion and Recommendation

16. For the reasons given above and having had regard to evidence before me, I recommend that the appeal should be allowed.

Ifeanyi Chukwujekwu

APPEALS PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and the Appeal Planning Officer's report, and on that basis, I agree that the appeal should be allowed.

Kenneth Stone

INSPECTOR