



Appeal Decision

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

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2020

Appeal Ref: APP/T5150/W/20/3248505 31A Braemar Avenue, London NW10 0DU

- 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 Lalji Vekaria on behalf of Saloria Capital Limited against the decision of the Council of London Borough of Brent.
 - The application Ref 19/4226, dated 29 November 2019, was refused by notice dated 28 January 2020.
 - The development proposed is first-floor rear extension.
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Decision

1. The appeal is allowed, and planning permission is granted for the construction of a first-floor rear extension at 31A Braemar Avenue, London NW10 0DU in accordance with the terms of the application, Ref 19/4226, dated 29 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: 180905-01-P0 (Site plan) and 180905-01-P1 (Site plan and Existing and proposed plans and elevations).
 - 3) The external surfaces of the development hereby permitted shall be constructed in the materials that match those of the existing building in colour, texture and design detail.

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.

Application for Costs

3. An application for costs was made by the appellant against the Council. The application is attached as a separate decision.

Main Issues

4. 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

Nos. 29, 29a, 33 and 33a Braemar Avenue with regards to privacy, outlook and light (29 and 29a only).

Reasons for the Recommendation

5. No. 31 is a mid-terraced two-storey dwelling with a ground floor rear outrigger, located at Braemar Avenue in Neasden. The property has been converted into two self-contained flats. The appeal proposal relates to the upper floor flat which has a rear dormer to create additional living space in the roof. It also has a rear terrace balcony which sits on top of the ground floor outrigger with a staircase leading down to the rear garden.
6. The surrounding area is residential and is characterised by terrace blocks of two-storey dwellings with enclosed, compact gardens and outriggers at the rear with steps leading down to the rear garden. A number of these outriggers have had first-floor extensions built, which include examples at neighbouring 29 and 33 Braemar Avenue on either side of the appeal property. The Council have stated that these have been constructed without planning permission and therefore cannot be relied upon to be a predominant feature which forms part of the character of the area. However, no information has been provided whether enforcement action is being carried out.
7. My observation on visit to the site and even by the Council's admission in the delegated report is that there are a series of such developments. They are thus considered to be an established feature on the rear aspect of properties in the area and form part of the rear character of the street.
8. The proposed first-floor rear extension would be built to a similar scale and would be of the same depth as the extensions at the adjacent properties¹. It is in fact only the stairs which would extend beyond the stairs at no. 33. As such, it would not be an incongruous addition to the host property and would not appear out of place when viewed from neighbouring rear gardens or windows. Even if the other similar extensions were discounted the scale of the proposed addition is modest in comparison to the scale of the original dwelling and it would respect the proportions and roof profile of the previous addition.
9. I find that the proposal would not, by reason of its depth, be detrimental to the character and appearance of the original building and would not introduce a feature which does not form the predominant character of the surrounding area. Accordingly, I find no conflict with Policy DMP1 of the London Borough of Brent, Development Management Policies (DMP) (2016) which requires, amongst other things, development to be of a design and scale that complements the locality.

Living conditions at 29,29a, 33 and 33a Braemar Avenue

10. As stated in paragraph 8, according to the drawings the rear wall of the proposal would not project beyond the rear wall of the extension at no.29. The side facing wall at the southern elevation would also be set in a similar distance from the boundary as the adjacent side facing elevation of the extension to the rear of numbers 29 and 29a.
11. The Council maintains that the proposal would breach the 1:2 rule suggested by Brent's Supplementary Planning Document 2: Residential Extensions and

¹ See Proposed First Floor in Drawing no. 180905-01-P1

Alterations (2018) (the 'SPD')². According to their figures, which have not been disputed by the appellant, the side of the extension would be 3.4 metres from the centre of the closest rear facing window in Nos.29 and 29a. Under the 1:2 rule a projection of only 1.7m would be recommended, whereas the proposal would have a depth of 2.8m from the original rear wall.

12. However, the relationship between the extension and the neighbouring rear windows would be no different to the common arrangement to the rear of other properties in the row. I also note that the extension would be located to the north of Nos.29 and 29a such that it would not cast a shadow or lead to a loss of daylight. Whilst the proposal would breach the 1:2 rule it would not extend beyond a 45-degree line from the neighbouring upper window, that being a commonly held standard.
13. The SPD amounts to guidance as opposed to a fixed policy requirement and having regard to the established pattern of development and the specific relationship between the two properties I am satisfied that sufficient space would be available between the side wall of the extension and the closest windows of Nos 29 and 29a to maintain a reasonable outlook and the proposal would not create an undesirable sense of enclosure. In reaching that conclusion I also note that the ground floor rear window of the adjacent unit has been enclosed with a canopy structure which already limits views towards the site of the appeal proposal. Thus, the impact would be noticed primarily by the adjacent upper floor unit. Given that all of the accommodation of the upper flat is on one level the projection of 2.8m would not have a greater impact than a 3m single storey rear extension that would be considered acceptable under the terms of the SPD.
14. The steel stairs would be open and see through. As such it would have negligible impact on outlook or the ability to enjoy light. Furthermore, the Council have stated in the delegated report that though the proposed extension would block the light to the door on the side elevation of No 33 and restrict their outlook to this side, this is considered acceptable as it is not the only or primary window to the habitable room. I find no reason to disagree.
15. The Council contends that there would likely be an overlooking and privacy risk, when the occupiers at the appeal property use the re-positioned rear external stairs to enter and leave the proposed extension. As is the case with the existing, the stairs would only be used to provide access to the garden. It is not expected that occupants would linger on these stairs for long periods other than to enter and leave the garden. As such, any views if at all, would be fleeting and would not cause undue harm to the privacy of occupants of nos.29,29a,33 and 33a.
16. I find that the proposal would not result in a significant increase of overlooking and loss of privacy to the occupiers of Nos.29,29a,33 and 33a Braemar Avenue. In addition, the first-floor extension would not be unduly detrimental to outlook and light and would not significantly increase the sense of enclosure at nos. 29 and 29a Braemar Avenue. 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.

² Paragraph 2.4 Two storey rear extensions

Conditions

17. 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 of the existing building in order to ensure a satisfactory appearance.

Conclusion and Recommendation

18. 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

19. 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.

Chris Preston

INSPECTOR