

Appeal Decision

Site visit made on 22 October 2022

by G Powys Jones MSc FRTPI

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

Decision date:

Appeal Ref: APP/T5150/W/20/3251868

36 Riffel Road, London, NW2 4PH

- 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 Nimesh Patel against the decision of the Council of the London Borough of Brent.
 - The application Ref 20/0381, dated 5 February 2020, was refused by notice dated 2 April 2020.
 - The development proposed is a single storey rear and side extension.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear and side extension at 36 Riffel Road, London, NW2 4PH in accordance with the terms of the application Ref 20/0381, dated 5 February 2020, subject to the conditions set out in the attached Schedule.

Preliminary matters

2. Given the differences between the name of the applicant/appellant provided in the application and appeal forms respectively, I have used the name used in the appeal form.
3. The appellant has made an application for costs against the Council. This is the subject of a separate decision letter.

Main issue

4. The main issue is the effect of the proposed development on the living conditions of neighbouring residents.

Reasons

5. The appeal property is a mid terrace property that has been subdivided into 2 flats. The proposal involves an L-shaped flat-roofed extension to the ground floor flat. The space between the property's outrigger and the boundary with 34 Riffel Road to the south would be infilled. The proposal would extend into the garden from the rear wall of the outrigger by approximately 3.5m for the full width of the site.
6. The Council's sole reason for refusal alleges that the proposal '*would harm the living conditions of the adjoining occupier*'. This is expressed in the singular, and no indication is provided as to the alleged harm that would occur, or to whom.

7. The Council relies on its officer report, which says that the proposal:
'would have a detrimental impact on the amenity of neighbouring properties, due to the increase in sense of enclosure and impact on the outlook of the occupiers.'
8. This, unlike the reason for refusal, is expressed in the plural, and is slightly more specific as to the nature of the alleged harm.
9. The Council says that the proposal is not in accord with its guidance set out in its Supplementary Planning Document (SPD) on Residential Extensions and Alterations. The SPD provides that L-shaped extensions are generally permitted provided they do not extend further than 3 metres in depth from the deepest part of the existing building (outrigger) and comply with the details provided in Figure 7. Figure 7 is an illustration showing a permissible L-shaped extension. The roof of proposed extensions should be designed with a slope so that the height on the boundary with adjacent properties should not exceed 2m.
10. Whilst the proposed extension does not fully comply with certain aspects of the SPD's guidance, the appellant says that the officer report does not take sufficient, if any, account of existing site conditions.
11. Firstly, as the appellant points out, I saw that No 38 to the north has been extended at ground floor level to the boundary with the appeal site. Whilst the proposed extension would be slightly deeper, by about 0.5m, than next-door's, in my view, it would have a minimal impact on the amenities currently enjoyed by No 38's residents.
12. Secondly, as the appellant rightly says, the space between No 34's outrigger and its boundary with the appeal property has been infilled. The extension would have no deleterious impact on this part of next-door's property since windows to habitable rooms no longer face it at ground floor level.
13. Whilst the extension would project along the boundary beyond No 34's rear wall for a distance of 3.5m or so and at a height of 3m, rather than the 2m specified in the guidance, this, in my view, would be far enough away from No 34's main habitable windows so as not to prove problematical in terms of the outlook available to the neighbours. Given the nature of the existing boundary treatment, the extension would not, to my mind, appear dominating when viewed from No 34's rear garden, or give rise to an adverse sense of enclosure.
14. Accordingly, I conclude that whilst the extension does not fully comply with the detailed provisions of the Council's SPD, the proposal would not harm the living conditions of neighbouring residents. The development would thus not conflict with that aspect of Brent's Development Management Policies Document policy DMP1 requiring new development to complement the locality and to provide high levels of external amenity.

Conditions

15. The Council has suggested the impositions of conditions in the event of planning permission being granted. A condition identifying the approved plans is necessary in the interests of certainty. A condition relating to materials shall also be imposed in the interests of visual amenity.

Other matters

16. All other matters raised in the representations have been taken into account. Whilst not decisive in my considerations, I note that none of the neighbours living either side of the appeal site objected, despite being notified of the proposal.
17. No other matter is of such strength or significance as to outweigh the considerations that led me to my conclusion that the appeal should be allowed.

G Powys Jones

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: the Location Plan and Drawing Ref FUL-01 Rev A.
3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.