
Appeal Decision

Site visit made on 19 January 2021

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2021

Appeal Ref: APP/T5150/D/20/3260900
143 Uxendon Hill, Wembley HA9 9SH

- 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 Mrs B. Ruth Bermudez against the decision of the Council of the London Borough of Brent.
 - The application Ref 20/2182, dated 17 July 2020, was refused by notice dated 11 September 2020.
 - The development proposed is erection of Juliette balcony to first floor rear elevation for planters.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupiers of the neighbouring properties at Nos. 141 and 145 Uxendon Hill with particular regard to privacy.

Reasons

3. The appeal property at No. 143 Uxendon Hill is a two storey semi-detached dwelling with a single storey flat roofed extension at the side and rear. It is located in a mature well-established residential area, typically characterised by semi-detached properties set back from the road. The proposal would involve the replacement of a first floor bedroom window with full height French glazed doors and the erection of a Juliette balcony with metal railing balustrades at first floor level at the rear of the property.
4. The proposed balcony would be set back from the common shared boundary and the rooms on the rear elevation of the adjacent property at No. 141. The rear gardens of Nos. 141 and 145 would be separated from the proposal by the flat roofed single storey extension at the rear of the appeal property and a high close boarded and chain linked fence running along the common shared boundaries. The adjacent property at No. 141 is also set down below No. 143 due to the sloping topography of the site and the surroundings.
5. I have considered the appellant's arguments that the proposed design and layout of the balcony has been carefully considered in order to minimise any impacts on occupiers of the adjacent properties and that the balcony would primarily be used for the appellant's plants and personal enjoyment.

Whilst the layout of the proposed development would limit any potential views directly into the rooms at first floor level on the rear elevation of the adjacent property at No. 141, given the siting and design of the proposed balcony, site levels and the separation distance between the properties, I consider the proposal would result in an unacceptable level of overlooking and loss of privacy to the rear gardens of Nos. 141 and 145.

The occupiers of these properties would use these garden areas to carry out leisure and household activities where they would be observed at close quarters when relaxing and sitting out by the occupants of the proposed balcony, particularly during the summer months. I therefore consider that the proposal would result in an unacceptable change in the living conditions for the occupiers of the neighbouring properties.

6. Consequently, I conclude that the proposal would result in unacceptable harm to the living conditions of the occupiers of the neighbouring properties at Nos. 141 and 145 Uxendon Hill with particular regard to privacy. It would be contrary to the overall aims of Policy DMP1 of the Brent Development Management Policies Local Plan 2016 and the Council's Supplementary Planning Document: Residential Extensions and Alterations 2018. This policy and guidance seek, amongst other things, to ensure that new development achieves a high standard of amenity and that balconies should be designed not to overlook the habitable room windows or gardens of adjoining properties.

Other Matters

7. I have considered the appellant's comments regarding her personal circumstances and the benefits to the appellant arising from the proposed development. I have considerable sympathy for the appellant's circumstances. However, the courts have generally taken the view that planning is concerned with land use in the public interest. Although personal circumstances can sometimes justify a personal or temporary permission, that would not be appropriate here where a permanent structure is intended. As such these are matters to which I can attach only limited weight in making this decision.
8. I have considered the various benefits put forward by the appellant that the proposal would bring, including the scheme's high quality design and meeting the needs of the appellant. While I have given them some weight, these benefits would not be sufficient to outweigh the harm I have identified. For all these reasons, there are no other material considerations to outweigh the development plan conflicts identified.

Conclusion

9. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR