



Appeal Decision

Site visit made on 9 April 2021

by Julie Dale Clark BA (Hons) DipTP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2021

Appeal Ref: APP/A5270/D/20/3260031

9 Rotherwick Hill, Ealing W5 3EQ

- 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 Phathekile Nekati against the decision of the London Borough of Ealing Council.
 - The application Ref 201720HH, dated 1 May 2020, was refused by notice dated 7 July 2020.
 - The development proposed is installation of freestanding climbing frame in rear garden (Retrospective Application).
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Decision

1. The appeal is dismissed.

Main Issue

2. I consider that the main issue is the effect of the climbing frame on the living conditions of the occupiers of the neighbouring property, No 7 Ashbourne Close.

Reasons

3. The appeal site is a detached house and the climbing frame is a substantial structure located in the rear garden. The garden is enclosed with a secure fence and there is varying vegetation to the boundaries. A large Oak tree occupies the south-western corner of the garden with its canopy extending over neighbouring gardens.
4. The climbing frame comprises a substantial climbing and playing structure including elevated platforms. This is a fairly large piece of childrens play equipment but assists in meeting the physical demands of the appellants children. The size of the structure and its elevated features appears prominent when viewed from the neighbour's property at No 7 Ashbourne Close. The fencing and vegetation go somewhat in softening the impact but due to the size of gardens at the appeal site and that of the neighbours, the climbing frame appears quite intrusive and when used for play this effect would be particularly highlighted. The elevated nature of the structure also lends itself to overlooking of the neighbour's private garden in relatively close proximity. There is also potential overlooking towards the rear rooms of the neighbouring house

5. Development Management¹ policies 7.4 and 7B are referred to, the most relevant of which is Policy 7B which indicates that new development must achieve a high standard of amenity for users and for adjacent uses by ensuring good levels of privacy and a positive visual impact, amongst other things. London Plan² Policy 7.6 is referred to which also seeks to ensure, amongst other things, that buildings and structures should not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings in relation to privacy. The London Plan has been updated since the 2016 version quoted however this does not impact on my assessment of this appeal.
6. The appellant has explained that the family's personal circumstances require a robust and challenging piece of play equipment. However, from the information submitted the climbing frame was erected some time ago and the children are referred to as now being aged 9 and 10. It is possible that they may well outgrow the equipment fairly soon. I also note from the information submitted, that the headroom for the platforms are designed for children aged 3 to 10. Whilst I appreciate the requirement for the climbing frame, and I am not in a position to determine whether the children will outgrow the climbing frame, I am not convinced that the evidence submitted justifies the retention of a permanent structure of this size and design in this location, especially given the likely harmful effects on the occupiers of neighbouring property.
7. The site is within a Conservation Area³ but the effect of the climbing frame on the Conservation Area is not a determining factor in assessing this appeal. I have considered the personal circumstances raised but these do not outweigh the harm I have identified to the neighbours living conditions. I have also considered all other matters raised but none alter my conclusion.
8. I conclude that the climbing frame would have a harmful effect on the living conditions of the occupiers of the neighbouring property, No 7 Ashbourne Close and conflict with Development Plan Policy 7B. The appeal therefore fails.

J D Clark

INSPECTOR

¹ Development Management Development Plan Document, Adopted 10 December 2013 (DPD).

² Mayor of London The London Plan – The Spatial Development Strategy for London Consolidated with Alterations since 2011, March 2016.

³ Hanger Hill (Haymill) Estate) Conservation Area.