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## Appeal Decision

Site visit made on 13 July 2021

**by Kim Langford Tejrar LLB (Hons) BSc (Hons) PGDIP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 July 2021**

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**Appeal Ref: APP/M5450/D/21/3272446**

**12 Elm Park, Stanmore HA7 4BJ**

- 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 S Danilet against the decision of London Borough of Harrow.
  - The application Ref P/0109/21, dated 12 January 2021, was refused by notice dated 23 March 2021.
  - The development proposed is 'single storey side extension; single and two storey rear extension; roof terrace to second floor; single storey rear extension; conservatory at rear (demolition of garage, conservatory and rear extension)'.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The description of development on the application form was amended following submission of the application. I have used the amended description, which better reflects the development proposed.
3. The Revised National Planning Policy Framework (the Framework) was published on 20 July 2021. I am satisfied that the equivalent policies in the revised Framework have broadly the same approach as their counterparts, and they do not alter my conclusions on the matter in any case.

### Main Issues

4. The main issues are the effect of the proposal on the living conditions of neighbouring occupiers at 16 Elm Park, particularly in relation to overlooking arising from the proposed second floor terrace and the perception of overlooking arising from the proposed single storey conservatory.

### Reasons

#### *Terrace*

5. No 16 Elm Park and the appeal site are sited close to their common boundary. No 16 Elm Park has several windows of varied size within its side elevation at first and second floor level. These windows appear to serve habitable rooms. The appeal site also has windows at second floor level, in its side facing dormer. Nonetheless, opportunities for mutual overlooking are limited by the relative height and siting of the windows, which are not aligned to afford direct overlooking.

6. The proposed terrace at two-storey height would utilise the flat section within the hipped roof of a first-floor extension. Some overlooking from the terrace towards No 16 Elm Park would be prevented by a 1.7 metre high screen. However, the terrace would be wide and it would be possible to gain views across the screen when moving away from it. This would be exacerbated by the close and direct alignment of the terrace with the windows. The proposed terrace would be of a sufficient size for outdoor seating, which would encourage its use as a functional outdoor amenity space for prolonged periods of time. The resulting overlooking would be far more significant than that arising from the existing window arrangement. For these reasons, I consider that the proposal would have an adverse impact on the living conditions of the occupants of No 16 Elm Park.
7. A previous proposal for development included a similar terrace in the same position as the current proposed terrace. The previous proposal was refused planning permission by the Council due to its effect on the character of the area; and a subsequent appeal was duly dismissed (Ref. APP/M5450/D/20/3249925). It is unfortunate that the Council had not identified its full objections to the previous proposal in its reasons for refusal. As a result, the effect of the proposal on the living conditions of occupiers of neighbouring property was not a main issue for the appeal. Therefore, the Inspector's silence on the matter does not imply that the effect of the terrace on living conditions would have been acceptable. The appeal was dismissed in any case and there is no 'fallback position' of an extant permission for a terrace.
8. For these reasons, the appeal proposal would result in an unacceptable adverse effect on the living conditions of occupiers of neighbouring property, contrary to Policy D3 of the London Plan, adopted 2021, Policy DM1 of the Harrow Development Management Policies Local Plan, adopted 2013, and the guidance contained within the Framework. These policies seek, amongst other things, high quality design which provides high standards of living conditions.

#### *Conservatory*

9. The appeal proposal would infill a recess in the rear elevation of the appeal site, thereby aligning the rear wall of the appeal site with that of No 16 Elm Park. The proposed single storey conservatory would project beyond the aligned rear elevations and would have windows facing the common boundary with No 16 Elm Park. Its single storey height and the existing intervening boundary fence would prevent any direct overlooking. Its limited height, distance from the boundary and limited depth would also prevent any perception of overlooking.

#### **Conclusion**

10. For the reasons given above, I find that the appeal proposal is contrary to the relevant policies of the Development Plan. There are no material considerations which indicate the appeal should be determined other than in accordance with the Development Plan. The appeal is accordingly dismissed.

*Kim Langford Tejrar*

INSPECTOR