



Appeal Decision

Site visit made on 12 November 2021

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 03 DECEMBER 2021

Appeal Ref: APP/M5450/W/21/3279734

8 Cannons Drive, Edgware HA8 7QP

- 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 Vimal Sivasanker against the decision of Harrow Council.
 - The application Ref P/0562/21, dated 10 February 2021, was refused by notice dated 5 May 2021.
 - The development proposed is the construction of a wooden playhouse/treehouse on a raised platform 1 metre in height from the ground.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal, the applicant in their Statement of Case (SoC) has submitted two further options for the refused scheme and has sought that I consider these options as part of the appeal. It is unclear which option the applicant seeks that I am to make my decision upon, however the main differences from the refused application to the options are Option A¹ proposes a 1.8 metre tall willow fence to act as screening, whilst Option B² proposes the same willow fencing with a reduction in the size of the raised platform. In general the appeal process is not the appropriate place to evolve the scheme; and the scheme that is considered at appeal ought to be the same one that was considered by the Council.
3. There is no evidence that the amended plans of these further options formed part of the scheme that the Council made its decision on, or that these options have been subject to any form of consultation. In accordance with the 'Wheatcroft Principles',³ it would not be appropriate to consider these plans of additional options within my decision as the acceptance of such would deprive those who should have been consulted on the changed development of the opportunity of such consultation. As such, I will base my decision solely upon the plans that were assessed by the Council during the original planning determination.

¹ Plans Titled VIMAL OPTION A View 1, VIMAL OPTION A Sheet 1; VIMAL OPTION A View 2 Sheet 2, VIMAL OPTION A View 3 Sheet 3, VIMAL OPTION A Plan Sheet 4, VIMAL OPTION A Elevations Sheet 6;

² Plans Titled VIMAL OPTION B View 1, VIMAL OPTION B Sheet 1; VIMAL OPTION B View 2 Sheet 2, VIMAL OPTION B View 3 Sheet 3, VIMAL OPTION B Plan Sheet 4, VIMAL OPTION B Elevations Sheet 6;

³ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

Main Issue

4. Taking the above into account, the main issue is the effect of the proposal upon the living conditions of 10 Cannons Close, with particular regard to overlooking and privacy to their rear garden.

Reasons

5. The appeal site is a semi-detached dwelling which along with neighbouring properties contains large vegetated gardens to the rear. The rear boundary fence of the appeal site is part of the side boundary of 10 Cannons Close at the point of the rear garden of this neighbouring property. The boundaries contain a fence approximately 1.8 metres tall with there also being vegetation present to the neighbouring property along the boundary and small trees to the rear of the appeal site where the proposal would be situated. Whilst I noted on my site visit the presence of outbuildings to the rear of neighbouring properties, these are generally single storey and low scale with no evidence of raised platforms or similar type playhouse buildings.
6. The proposed playhouse would be positioned within the rear corner of the garden close to the rear boundary with the playhouse being a total of 2.9 metres tall with a raised platform running up to the rear and side boundary. Given the height of the platform and the proximity of the neighbouring garden, there would be direct views for users of the playhouse into the neighbouring property. This proposed situation presents a clear difference in the perception of overlooking and privacy than currently from persons sitting, playing or standing on the platform for long periods of time. Given the suburban environment, these changes to the perception of overlooking and privacy as a result of this development carry a significant impact to the living conditions of the occupiers of 10 Cannons Close.
7. I appreciate the comments in the applicant's SoC that there is vegetation along the boundary which may provide screening opportunities, however the vegetation is located on the neighbouring property and is outside the control of the applicant. This vegetation would not overcome the principle of such an addition which significantly changes the perception of overlooking as discussed, as well as the planting having the potential to be removed by future occupiers of this neighbouring property.
8. In conclusion on this matter, the scheme would cause significant harm to the living conditions of the occupier of 10 Cannons Close as a result of overlooking and loss of privacy. Consequently, the scheme would be contrary to Policy DM 1 of the Harrow Development Management Policies Local Plan (2013) which seeks that new development achieve a high standard of privacy and amenity.
9. I note that Policy D3 of the London Plan 2021 is referred to in the refusal reason of the Decision Notice which is a design led policy. This policy is not relevant to the consideration of living conditions and is not relevant to the determination of this matter. Policy CS1 of the Harrow Core Strategy 2012 (B) also concerns the managing of growth and is a design led policy which does not seek to address concerns regarding living conditions. As such, this policy is not relevant to the determination of this matter involving living conditions.

Other Matters

10. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 prescribes a duty upon a decision maker to give special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area (CA), in the determination of a planning application. The appeal site lies within the Canons Park Estate CA. I note that the application was not refused for its impact upon the CA, and the Planning Officer and Conservation Officer agree that the scheme would not cause harm to the character and appearance of the CA. I have no reason to dispute the opinion of the Council and am also of the opinion that the proposed scheme would not cause harm to the character and appearance of the CA.
11. I note comments within the applicant's SoC that they feel aggrieved by the decision making process with regards to how the Council has communicated with the applicant and the lack of discussion with regards to further options. Whilst this is disappointing, this matter is not related to the assessment of this particular scheme and does not change the acceptability of the proposal.

Conclusion

12. Taking the above into account, the appeal is dismissed.

J Somers

INSPECTOR