



Appeal Decision

Site visit made on 22 February 2022

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February 2022

Appeal Ref: APP/T5150/W/21/3285631

Units 1 to 12, 395 and 395A & 395B High Road, Wembley HA9 6AA

- 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 Mittal, Mittal Properties Ltd against the decision of the Council of the London Borough of Brent.
 - The application Ref 20/1180, dated 16 April 2020, was refused by notice dated 29 April 2021.
 - The development proposed is two storey rear extension to facilitate creation of 1x residential unit; creation of communal garden at first floor level and provision of waste and cycle storage at ground floor.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address entered on the planning application and appeal forms is '395A High Road, Wembley HA9 7DT'. No 395A is one of two flats that are currently present on the site, but I consider that the full extent of the appeal site shown on the submitted plans is more clearly indicated by the address stated on the Council's decision notice. I have therefore used this address in the banner heading above.
3. The description of development in the banner heading above is taken from the Council's decision notice and the appeal form. In my view, it more accurately sets out the development proposed than the description entered on the planning application form. As it is used by both main parties, I am satisfied that no injustice would be caused by basing my assessment on this description.

Main Issue

4. The main issue is whether or not the development would make adequate provision for privacy, light and outlook for future occupiers of the development.

Reasons

5. The appeal proposal includes a two-storey extension at the rear of a building containing a ground floor commercial unit with flats above. At first-floor level, the extension would accommodate a studio flat. This would be served by a door and a window that would face across a communal garden towards the existing flats on the site, but the window would be obscure glazed. The main sources of light and outlook for the dwelling would therefore be 4 further windows to the side of the building facing onto a service road and part of an existing open yard to the rear of 393 High Road.

6. Guidance within the Brent Design Guide Supplementary Planning Document 1 2018 (SPD) advises that directly facing habitable room windows will normally require a minimum separation distance of 18m and that a distance of 9m should be kept between gardens and habitable rooms or balconies. Based on my observations of the existing site circumstances and relationships with neighbouring development, I am satisfied that the windows to the side of the dwelling would allow suitable standards of light, outlook and privacy for future occupiers of the dwelling, and that the proposal would not cause unacceptable overlooking or loss of light or outlook to surrounding occupiers.
7. However, the windows to the side of the building would be positioned on the boundary of the appeal site. With no separation between the windows and the boundary, the maintenance of suitable living conditions for occupiers of the appeal development would therefore be effectively reliant on the condition of the neighbouring land. From the evidence before me, I can have little certainty that there would not be future proposals for development or alterations on the adjoining or neighbouring sites, nor that such development could take place without causing serious detriment to the future quality of life of occupiers of the site through loss of light, outlook or privacy. As a consequence, I can not be confident that suitable standards of light, outlook and privacy for occupiers of the dwelling could be maintained, and I consider that the proposal would be likely to restrict the potential for future development on the adjoining land and sites immediately beyond.
8. Notwithstanding the existing site circumstances, I therefore conclude that the proposal would fail to make adequate ongoing provision for privacy and outlook for future occupiers of the development. It would be contrary to advice within the SPD that development should not preclude or compromise future development nearby and should not normally rely on adjoining sites for light and outlook. It would also conflict with Policy DMP1 of the Development Management Policies 2016 which sets out that development will be acceptable provided, amongst other things, it is of a siting, layout, detailing and design that provides high levels of internal and external amenity and complements the locality.

Conclusion

9. The proposal would deliver an additional dwelling, increasing the supply of housing in accordance with objectives within the development plan as well as the National Planning Policy Framework, and offering associated economic and social benefits. However, these benefits would be very limited given the small scale of the development, and even taken together I do not consider that they would be sufficient to outweigh the failure to make adequate ongoing provision for privacy, light and outlook for future occupiers of the development. Nor would they outweigh the resulting conflict with the development plan when it is read as a whole.
10. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR