



Appeal Decision

Site visit made on 18 March 2022

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th March 2022

Appeal Ref: APP/M5450/D/21/3288399

211 Pinner Road, Harrow, HA1 4EX

- 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 V Thayalan against the decision of the London Borough of Harrow Council.
 - The application Ref P/3263/21 dated 4 August 2021, was refused by notice dated 29 September 2021.
 - The development proposed is raised patio with external steps to rear; installation of approx. 1.33 to 2.22m high wooden boundary fencing to rear (retrospective).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have utilised the Council's description of the development as per the decision notice as I feel it more concisely describes the development.
3. The appeal is submitted retrospectively, in that regard the proposal had already been constructed at the time of my site visit.

Main Issue

4. The main issue is the impact of the proposal upon neighbouring amenity with regard to overlooking, loss of private, outlook and sense of enclosure.

Reasons

5. The appeal site is a two-storey mid-terrace dwelling. The dwelling benefits from a single storey rear extension off which the appeal proposal is located. The Council's delegated report states that the extension has been built at a height which exceeds that allowed under permitted development and is thus unlawful. The appellant's submissions do not address this but despite this the rear extension in question does not form part of the appeal proposal before me. I have, therefore, not taken this into account as part of this appeal.
6. The Council's refusal reason is limited to impact upon residential amenity. No refusal reason has been based upon matters relating to character or visual appearance of the proposal. I have no reason to conclude differently on these elements with regard to the evidence before me and what I saw at the time of my site visit.
7. The fencing as part of the proposal would range from 1.7m to 1.9m above original ground level when viewed from the neighbouring property at 209

Pinner Road which is itself slightly lower due to the site topography. The fencing height would be consistent with that which could, in any case, be constructed under permitted development (up to 2m) as is noted by the Council's delegated report. The patio itself would be 0.6m in height above ground level which results in the fencing, when stood on the patio being some 1.14m to 1.3m in height above patio level adjoining 209 Pinner Road. From 213 Pinner Road the fencing, above patio level would also around 1.6m in height. The fencing from ground level, viewed from the neighbouring property this side (213 Pinner Road), would in part exceed the 2m which would be allowed for under permitted development.

8. At the time of my site visit I stood on the patio as well as within the garden at existing ground level. I found that the patio afforded me full views into the gardens of neighbouring properties on both sides of the appeal proposal resulting in a substantial adverse overlooking and loss of privacy for neighbouring occupants. I note the appellant's offer to make reasonable adjustments with regard to height and privacy screens, however, it is not for an appeal to evolve a scheme and acceptance of amendments at this stage would prejudice interested parties who should be given the opportunity to consult on any revised proposals as appropriate. I have therefore considered the proposal as presented before me.
9. I find that increasing fencing to a height (from ground level) which would be allowed under permitted development (2m) would still only result in a fence height above the patio level in the region of 1.4m adjoining 209 Pinner Road. Views would still be readily available even with natural use, into neighbouring gardens, with fencing at this height. The fencing adjoining 213 Pinner Road already in part exceeds that allowed under permitted development and is over 2m in height which, as outlined above, still only results in 1.4m above patio height allowing full views into the garden. A reduction in fence height, to 2m adjoining 213 Pinner Road, would result in a fence height at patio level which would still enable substantial adverse overlooking into the neighbouring garden.
10. It can be seen that in the case of both neighbouring properties that increasing the height of the fencing, or use of privacy shields at a height which would genuinely overcome the potential for adverse overlooking at this level and proximity, would result in a means of enclosure of significant height when viewed from within the neighbouring gardens at their lower ground levels. Whilst the increased screening may alleviate concerns raised with regard to overlooking and loss of privacy I find they would then exacerbate issues with regard to a sense of enclosure and impact upon outlook, when combined with a rear extension and the existing narrow plot widths, for neighbouring occupiers.
11. There is, due to the site setting, an existing ability to look into neighbouring gardens to some extent for example from the kitchen window and patio doors of the appeal site but this is greatly restricted compared to the clear views which I find are available from the patio in question itself. The appeal proposal is therefore a fresh feature to the appeal site which I have found to result in substantial adverse overlooking, loss of privacy, impact upon outlook and sense of enclosure to the detriment of neighbouring occupiers.
12. The Council's refusal reason is clear in that it is not based upon natural light. It is based upon substantial adverse overlooking and sense of enclosure

regardless of compliance with other elements of policy as claimed. Compliance with matters such as character and appearance, as highlighted by the appellant, do not overcome the issues which I have found within the consideration of this appeal.

13. I note the appellant's inclusion of extracts of the National Planning Policy Framework 2021 (the Framework) within pages 3 – 6 of their statement. Despite this it should be kept in mind that whilst the Framework is a material consideration it does not change the status of the Local Plan which is the starting point for determination in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004. There are no material considerations before me to depart from the Local Plan policies stated within the refusal reason.
14. The proposal would be contrary Harrow Development Management Policies Local Plan 2013 Policy DM1 which requires proposals to have regard for the overlooking relationship between windows and outdoor spaces and requires proposals to achieve a high standard of privacy and amenity. Proposals that would be detrimental to the privacy and amenity of neighbouring occupiers will be resisted.
15. The proposal would also be contrary to London Plan 2021 Policy D3.D(7) which states that development proposals should, in terms of experience, deliver appropriate outlook, privacy and amenity. In addition, guidance within the Residential Design Guide Supplementary Document 2010, is clear that extensions should not result in any significant loss of privacy to neighbouring houses or gardens.

Other Matters

16. I note third a party comment which has been submitted as part of the application process. Informal views in their own right are not a material planning consideration as has been noted by the Council. The site is not within a flood zone and I have no evidence that the proposal would result in drainage or flooding issues which would substantiate refusal.
17. I note that the patio is constructed over a drainage scheme which has been approved by Thames Water and also note the claimed cost of drainage works which would be required if the patio was to be lowered further as outlined in the original planning statement. This does not, however, outweigh the adverse impacts I have identified with regard to the residential amenity of neighbouring occupants.
18. Comments regarding fencing at other properties and proposals at 215 Pinner Road are noted, however, the appellant has not submitted evidence such as the approved plans or decision notice for me to consider the facts of the case for the properties in question. In any case each case should be considered on its own merits.
19. The appellant's personal statement makes reference to an unspecified disability with regard to accessing the rear of the property. No reference to this disability is made in support of the proposal within the original application documents. I do not have further evidence to support this statement to enable me to place more than limited weight on it within this appeal. I have no evidence that there are no other alternatives which could enable access to the rear of the property that would outweigh the substantial harm to neighbouring

amenity which I have found as a result of the proposal. A lack of objection from other neighbours is a neutral consideration.

Conclusion

20. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR