



Appeal Decision

Site visit made on 22 August 2022

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2022

Appeal Ref: APP/T5150/D/22/3294279

15 Birchen Grove, London, NW9 8RT

- 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 K Hirani against the decision of the Council of the London Borough of Brent.
 - The application Ref 21/4587, dated 15 December 2021, was refused by notice dated 9 February 2022.
 - The development proposed is the erection of a ground floor wrap-around extension, first-floor side and rear extension with associated internal alterations.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the date of the decision the Council has adopted the *Brent Local Plan 2019-2014* (LP) in February 2022. The Brent Development Management Policies Plan 2016 has been revoked and its Policy DMP1, as referred to in the Council's decision, is no longer relevant. The Council has forwarded a copy of Policy DMP1 from the new LP and which was referred to as an emerging policy at the time of their decision. The appellant was invited to comment. I have considered the appeal having regard to the up-to-date development plan.

Main Issue

3. The main issue is the effect of the proposal on the living conditions at 17 Birchen Grove, with particular regard to visual impact and light.

Reasons

4. The appeal property is a two-storey, semi-detached dwelling within a residential area comprising properties of mixed types. The proposal would include a two-storey side extension up to the shared boundary with No 17, a ground floor rear extension across the full width of the plot to a depth of 6m, and a first-floor rear extension which would project contiguous with the original flank wall of the dwelling, to a depth of just less than 3m, and set away from the boundary with the attached neighbour at No 13.
5. The Council is satisfied that the two-storey side extension would not harm the character or appearance of the street scene. They are also satisfied that, given an immediately adjoining single-storey side extension to the attached property

at No 13, and the separation distance between the proposed first-floor extension and the common boundary with this neighbouring property, there would be no harm to the attached neighbour's living conditions. I have no reason to disagree with these findings.

6. The Council's adopted *Residential Extensions & Alterations Supplementary Planning Document 2* (SPD) includes detailed guidance for single-storey rear extensions. It advises that for semi-detached houses the maximum depth normally permitted is 3m from the wall of the house. It goes on to state that an extension up to 6m in depth may be acceptable providing that for every additional metre beyond 3m the extension should be set in from the boundary by an additional metre. The reason for this is expressly stated to protect neighbouring residential amenity. The SPD goes on to state that if the neighbouring house is set at a lower level or has a different rear building line this depth may have to be reduced by a commensurate amount.
7. The proposed extension would exceed the guidelines contained within the SPD by extending adjacent to the common boundary with No 17 by more than 3m. Furthermore, the original rear elevation to the appeal property already projects around 2.5m beyond the rear elevation of No 17 according to dimensions given on the application drawings.
8. No 17 has a single-storey side garage up to the same boundary and I understand that its rear facing window serves a utility area. As such, there would be no loss of light or outlook from any ground floor habitable living space that would be affected by the proposed rear extension.
9. The appellant points to the fact that No 17 has a 6m deep single-storey extension across the full width of the original dwelling and argues that the intervening space to the side of this up to the boundary with the appeal property has no use as primary outdoor amenity space. I do not share this point of view. Regardless of the overall size of the rear garden to No 17, the space in question is not so small or narrow to be invaluable or unusable as an outdoor amenity area, regardless of whether there is direct access to it from openings to the ground floor living areas. It has a paved surface that adjoins the area immediately to the rear of the extension and is directly accessible from it along a level surface. Although there is a levels difference between Nos 15 and 17 due to the topography of the area, with No 17 set marginally higher, the difference is only slight and would have little effect in reducing the perceived height of the extension along the boundary line. The circumstances between the appeal property and No 17 are not unusual or unique, but rather appear to be precisely those where the SPD guidance is intended to apply in order to safeguard the amenity of neighbouring occupiers.
10. The proposed extension would present itself as a reasonably tall and long enclosure immediately adjoining the boundary, noticeably exceeding the height of a typical garden fence. It would be seen from the immediately adjoining garden space as having an imposing and dominant presence, exactly the harmful impact the SPD guidance seeks to avoid.
11. With regard to two-storey rear extensions, the SPD advises that the depth is restricted to half the distance between the side wall and the middle of any neighbours' nearest habitable room window up to a maximum depth of 3m. The reason given for this 1:2 rule is to ensure that the loss of amenity and light to the neighbouring properties is kept within reasonable limits.

12. Due to the staggered elevations between both properties, the Council estimate that the first-floor rear extension would extend beyond the first-floor rear wall of No 17 by 5.43m and that it would have a lateral distance of 7.5m from the nearest first-floor window. As this would breach the 1:2 rule the Council conclude that there would be an unacceptable loss of light and outlook from the first-floor window, which they contend to be a bedroom. The appellant argues that this nearest window is actually a bathroom and therefore non-habitable space. My observations during my visit were inconclusive on this matter. Regardless, I saw that the nearest first-floor window at No 17 enjoys an open aspect over an expansive rear garden. There is no substantive evidence before me to demonstrate that there would be any significant loss of daylight within the room served by this window.
13. Any sight of the proposed first-floor extension in the outlook from No 17 would be at an oblique angle and from a reasonable distance from where I am satisfied that it would appear as a well-considered and proportionate addition, rather than overbearing and intrusive. Although there may be a very slight numerical conflict with the guidance, I am satisfied that there would be no harm to the living conditions at 17 Birchen Grove from the first-floor extension and therefore no conflict with the aims and objectives of the SPD in this regard.

Other Matters

14. The appellant has drawn my attention to an alternative proposal for extending No 15 with a pair of single-storey extensions. One would be to a depth of 6m across the full width of the original dwelling. The second would be to the side of the original dwelling up to the boundary with No 17 and projecting to a depth of 6m beyond the dwelling's original rear building line. There would be a narrow void of 500mm between both rear projections. The Council has confirmed that prior approval from them for this proposal would not be required (Ref 21/3876).
15. The appellant has put forward this alternative as a 'fallback' development. However, it would be a materially different proposal to the appeal scheme, with no new first-floor space to the side of the dwelling which currently proposes an additional bedroom and a re-provided bathroom. In addition, where it would run adjacent to the boundary with No 17, the extension would be extremely long and narrow. The 'fallback' development would create space at ground floor of very little value at the expense of the currently proposed additional and useable first-floor living space. Therefore, whilst the alternative development would have the same impact upon the living conditions at No 17 as the single-storey rear element of the appeal proposal, I am not persuaded that there is anything more than just a theoretical possibility that it would take place. I therefore ascribe only a very small amount of weight to the 'fallback' argument.

Conclusion

16. Notwithstanding my findings with regard to the first-floor rear extension, due to its size and siting, I find that the single-storey rear extension would harm the living conditions at 17 Birchen Grove. The failure of the development to achieve a high level of amenity at No 17 means that there would be conflict with LP Policy DMP1. There would also be conflict with the National Planning Policy Framework's objectives for achieving well-designed places and as a consequence the proposal would not represent a sustainable form of

development. The limited weight I give to the 'fallback' development does not outweigh the harm that I have identified and the conflict with local and national policy. Accordingly, and having regard to all other matters raised, including the absence of any objections to the proposal, the appeal is dismissed.

John D Allan

INSPECTOR