
Appeal Decision

Site visit made on 16 August 2022

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2022

Appeal Ref: APP/T5150/W/22/3291014
39A Braemar Avenue, London NW10 0DU

- 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 Saloria Capital Limited against the decision of the Council of the London Borough of Brent.
 - The application Ref 21/3979, dated 22 October 2021, was refused by notice dated 16 December 2021.
 - The development proposed is the erection of a first floor rear extension with repositioning of existing staircase and associated internal alterations to first floor flat.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a first floor rear extension with repositioning of existing staircase and associated internal alterations to first floor flat at 39A Braemar Avenue, London NW10 0DU in accordance with the terms of the application, Ref 21/3979, dated 22 October 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 100418-00-P0; 100418-01-P0; 100418-03-P2 and 100418-03-P3.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Procedural Matter

2. The Council has confirmed that Policy DMP1 of the Development Management Policies has been superseded by Policy DMP1 of the Brent Local Plan (LP) adopted in February 2022. This policy does not materially alter the basis of the assessment of the appeal scheme.

Main Issue

3. It is considered that the main issue is the effect of the proposed development on the living conditions of the occupiers of neighbouring properties.

Reasons

4. The appeal property is a 2-storey building which has ground and upper floor flats. The property forms a pair of semi-detached buildings with 41 Braemar

Avenue. At the rear there is an existing external metal staircase which provides access from the upper flat's terrace/kitchen to the rear garden. This staircase is of an open rather than solid design. The rear elevation of the addition at ground floor level extends further into the garden than at first floor level to create the first floor terrace. By reason of siting, the staircase is partially located above a window which serves the kitchen of the ground floor flat. Next to this window is a glazed door providing access from the ground floor flat to the rear garden.

5. The proposed development includes an extension to the existing addition to incorporate the first floor terrace into the kitchen. Based upon the 1:2 rule contained in the Supplementary Planning Document 2 *Residential Extensions and Alterations* (SPD2), the Council calculates that the total maximum depth of a projection at first floor level from the rear addition should be no more than 2.25 metres to maintain sunlight and daylight reaching the nearest habitable room window of the upper flat at No. 41. However, the proposed extension would result in a projection 0.5 metres greater than calculated by the 1:2 rule.
6. The SPD amounts to guidance rather than a policy requirement and cannot address all circumstances, particularly where more detailed evidence is provided. In this case the appellant has produced a Shadow Cast Model which shows the degree of existing and potential shadowing of the rear window of No. 41. This window is east facing and, as such, receives sunlight during the mornings but there is a shadow of varying degrees cast across the opening at other times.
7. The proposed extension would, at certain times of the year, increase the degree of overshadowing of this window as identified by the Shadow Cast Model. However, the duration and limited extent of the increase in the shadowing of the rear window by the proposed extension would not amount to a significant detriment or harm to the occupiers of the upper flat at No. 41 which would justify this appeal being dismissed.
8. A small metal platform would project from the relocated first floor flat's rear door and would be sited above the kitchen window of the ground floor flat. Extending from this terrace would be a metal staircase to retain access to the rear garden.
9. By reason of siting, and although of an open design, the existing staircase already has an impact on the outlook and levels of daylight and sunlight reaching the ground floor window. With the benefit of the appellant's Shadow Cast Model, the levels of sun and daylight reaching the kitchen window would not be materially altered. The impact of the proposed platform and staircase on the outlook of the occupier of the ground floor flat would also not be materially different. The appeal scheme would also not alter the outlook and levels of daylight and sunlight reaching the glazed kitchen door. Further, because of the siting and open design of the proposed platform and staircase the appeal scheme would not represent an overbearing form of development in the outlook from the ground floor kitchen window and door.
10. For the reasons given, it is concluded that the proposed development would not cause unacceptable harm to the living conditions of the occupiers of neighbouring properties and, as such, it would not conflict with LP Policy DMP1 which refers to development being acceptable where it provides high levels of internal and external amenity.

Conditions

11. The Council has suggested several conditions in the event this appeal succeeds which have been assessed against the tests in the National Planning Policy Framework and the Planning Practice Guidance. For reasons of clarity, a condition is necessary to ensure that the appeal scheme is erected in accordance with the submitted drawings. A condition is also necessary to ensure that the external materials of the appeal scheme match those of the host property to assist with the visual assimilation of the enlarged property into the surrounding area.
12. Accordingly, and for the reasons given, it is concluded that this appeal should be allowed.

D J Barnes

INSPECTOR