



Appeal Decision

Site visit made on 22 August 2022

by Ann Veevers BA(Hons) PGDip (BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th October 2022

Appeal Ref: APP/T5150/W/22/3291701

36A Riffel Road, London NW2 4PH

- 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 Nimesh Patel against the decision of the Council of the London Borough of Brent.
 - The application Ref 21/4080, dated 1 November 2021, was refused by notice dated 17 January 2022.
 - The development proposed is described as "rear dormer window, rear dormer window with terrace to rear outrigger, two front rooflights and replacement of first floor rear window with doors and installation of balcony to first floor flat".
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Nimesh Patel against the Council of the London Borough of Brent. This is the subject of a separate Decision.

Preliminary Matters

3. The description of development provided on the planning application form read 'respective dormer with balcony at the first-floor level (part)'. The Council changed the description to that in the banner heading above. This description is more precise and was used by the appellant for the purposes of the appeal. Consequently, I am satisfied that no party will be prejudiced by my use of it in the banner above.
4. At the time of my site visit, a development as shown on the submitted plans was substantially complete, although some deviations were apparent between the installed development and the plans. For the avoidance of doubt, this appeal is determined on the basis of the plans as submitted with the planning application.
5. Following submission of the appeal, the Council adopted a new development plan on 24 February 2022, the Brent Local Plan 2019-2041 (BLP). The Council has confirmed that Policy DMP1 of the Development Management Policy (2016) has been replaced by Policy DMP1 of the BLP. As the Council submitted an update on this, the appellant has been given the opportunity to comment as part of the appeal process. Therefore, I have considered the appeal having regard to the BLP.

Main Issues

The main issues are the effect of the proposal on:

- the character and appearance of the host property and area; and,
- the living conditions of neighbouring occupants with particular regard to privacy.

Reasons

Character and appearance

6. The area is predominantly characterised by tree-lined rows of period two storey bay fronted terraced properties with rear gardens and substantial two storey outriggers. There is a pleasing verdant appearance to the rear of the terraces and a regularity formed of a consistent building line of traditional pitch-roof outriggers. The appeal property is a first floor flat in the middle of a terraced row. It is proposed to incorporate a dormer to the main roof slope as well as a dormer and terrace extending over a significant section of outrigger roof, which is not a common feature in the area.
7. The proposed dormer on the main roof would be set only slightly above the eaves, and due to its depth and width would appear as a dominant feature on the rear roof slope. The proposed dormer over the outrigger incorporates a sloping dormer cheek and would similarly be set up from the eaves only slightly, increasing its overall depth and mass. In combination, the scale and depth of the two dormers so close to the eaves, would appear as bulky and visually prominent features on the rear elevation of the building. Whilst I acknowledge that the rear elevation would not be clearly visible from public vantage points, it would be noticeable from neighbouring gardens. In any event, I do not consider that lack of public visibility obviates the need to achieve good design.
8. The Council's supplementary planning guidance 'Residential Extensions and Alterations SPD2' (Nov 2017) (SPD) advises rear dormers should be set a minimum of 500mm above the eaves. The proposed dormers are set lower than this, which exacerbates the scale and height of the dormers. I therefore find that this element of the proposal would detract from the appearance of the host building and surrounding area.
9. The proposed terrace extends from the outrigger dormer and is surrounded by a solid enclosure that would be set well above the eaves and below the dividing parapet wall on the outrigger. As such, the terrace enclosure itself would not appear overly prominent. Furthermore, whilst the materials of the proposed dormers and terrace enclosure do not match those of the existing roof, the surrounding roofs are a mix of red and grey colours of varying materials. In this context, I find the proposed materials would not add to the harm already identified. I consider the proposed fenestration alterations, including two front rooflights and replacement first floor rear window with doors are acceptable.
10. However, this does not outweigh my findings in respect of the proposed dormers and, because it is not severable from the outrigger dormer, the proposed terrace itself. Therefore, overall, I consider the proposed dormer roof alterations and terrace would appear as an obtrusive and discordant addition to the roof and detract from the character and appearance of the surrounding

area. The proposal would therefore conflict with Policy DMP1 of the Brent Local Plan 2019-2041 (BLP) which seeks to ensure, amongst other things, that development compliments the locality.

Living conditions

11. Due to the projection of the proposed balcony from the face of the projecting two-storey outrigger, it would allow the ability to obtain wide and clear views over surrounding gardens. The SPD advises that balconies should be '*designed not to overlook the habitable room windows or gardens of adjoining properties*'.
12. Whilst overlooking already occurs to some degree at the appeal site and surrounding properties, due to the proposed balcony's position on an outrigger with a significant rearward projection, it would substantially and visibly increase the sense of overlooking towards neighbouring gardens.
13. The appellant has indicated a willingness to provide a screen to the proposed balcony and suggests that this could be agreed by way of condition. I have not been provided with details of a screen to assess and therefore I cannot be certain that such a structure would be effective. Nevertheless, having regard to the use of conditions, it would be unacceptable to re-design the proposed balcony through the appeal procedure, as it would result in a different form of development and consideration to that applied for. This would be prejudicial to interested parties that would not have the opportunity to comment on any amended plans. Furthermore, I am not persuaded by the appellant's claim that a balcony is required so that doors can open outward.
14. Turning to the proposed open terraced area, due to the height of the outrigger, set-back of the terrace into the roof slope and height of the enclosure, only limited glimpses of gardens and windows would be visible towards the east and south. These views would not be significantly different than already experienced from upper floor windows in the area. As such, I find the second-floor terrace would not unacceptably infringe on the privacy of surrounding occupants.
15. For the reasons given, I conclude that the proposed first floor balcony would harm the living conditions of occupiers of surrounding dwellings, with regard to privacy. The proposal would therefore conflict with the objectives of Policy DMP1 of the BLP which seeks to ensure development is sited such that it provides high levels of amenity. In reaching this decision I have also had regard to guidance in the SPD.

Other Matters

16. I acknowledge that planning permission 19/3755 was granted for a rear dormer along with a dormer over the outrigger at the appeal site. Both main parties have highlighted the differences between the approved and proposed schemes. I have not been provided with a copy of the 19/3755 permission, although I note the discrepancy between the parties in relation to the approved height above the eaves of the main dormer. Nevertheless, on the evidence before me, there would be a significant difference between the approved scheme and the proposed, particularly with regard to the addition of a first-floor balcony and the design and depth of the proposed dormers. I have assessed the appeal on the basis of the proposed scheme and have found harm for the reasons given.

17. My attention has been drawn to examples of roof alterations along Riffle Road as well as a balcony with a similar arrangement to that proposed. Whilst I have been provided with aerial photographs, I have no specific details or background of these examples before me. Even if other roof alterations exist in the area, the circumstances in each proposal are likely to be different, and in any event the fact that apparently similar development has been granted permission is not a reason, on its own, to allow unacceptable development. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

Conclusion

18. I find harm the character and appearance of the host dwelling and area as well as harm to the living conditions of neighbouring occupants with particular regard to privacy. The proposed development therefore conflicts with the development plan when considered as a whole and there are no other considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.

19. For the reasons given above I conclude that the appeal should be dismissed.

Ann Veevers

INSPECTOR