



Appeal Decision

Site visit made on 28 February 2023

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2023

Appeal Ref: APP/M5450/D/22/3304817

16 Thistlecroft Gardens, Harrow, Stanmore HA7 1PN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Patel against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/1841/22/PRIOR, dated 20 May 2022, was refused by notice dated 30 June 2022.
 - The development proposed is single storey rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal application submitted by the appellant was made to determine whether prior approval was required for a rear extension under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order). The provisions of the Order require the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received. Two objections were received from the occupier of No 14 Thistlecroft Gardens, and, as such, the Council was required to assess the impact of the proposed extension on the amenity of any adjoining premises to determine if prior approval is required. Prior approval was refused by the Council for two reasons.
3. The second reason for refusal concerned the combination of the proposed extension with an existing outbuilding in relation to the parameters detailed within the Order. The Council have since indicated that this reason was added erroneously and consequently, it has not been assessed as a main issue in the appeal.

Applications for Costs

4. An application for costs was made by the Applicant against the Council in writing. The Council subsequently made an application for costs against the Appellant. These applications are subject of separate decisions.

Main Issue

5. The main issue is the effect of the proposed development on the amenity of the occupiers of No 14 Thistlecroft Gardens.

Reasons

6. The host dwelling is a two storey, semi-detached dwelling on the west side of Thistlecroft Gardens which is characterised by the regular arrangement and style of such dwellings. The use of red brick for the walls and tiles for the roofs is broadly consistent across the estate. Typically, dwellings are set back behind a modest front set back/garden and the main private amenity areas are to the rear. In the case of the appeal dwelling, the rear garden slopes gently away from the rear of the dwelling.
7. The proposal seeks to extend the dwelling from the rear elevation by 6 metres in depth, 5 metres wide on the shared boundary with No 14 Thistlecroft Gardens, abutting a fence which appears to have been constructed relatively recently. The height of the extension would be 3 metres to the eaves and 3.1 metres overall, when measured from the ground level which appears to have been lowered through the removal of a raised patio. From the plans, an existing pitched roof outbuilding would be retained on its raised base to the south of the extension with a 50mm gap between them.
8. There is an extensive planning history associated with the appeal dwelling. Construction works are ongoing in connection with a two storey side extension. A number of previous proposals have included single storey 6m deep rear extensions.
9. From the evidence and my findings on site, owing to the already extended nature of No 18 at the rear, the position and scale of an existing outbuilding within the appeal site and the siting of the proposed extension away from the shared boundary, the proposal would not harm the living conditions of occupiers of No 18 Thistlecroft Gardens.
10. The consideration as to the effects on the living conditions of neighbouring occupiers therefore falls to the relationship with the neighbouring dwelling, No 14 Thistlecroft Gardens. No 14 does not have a rear extension, though its split level garden is on a slightly raised terrace which steps part-way down to a lower garden area. The rear elevation has both a single window and glazed single door which appear to serve a kitchen.
11. The appellant's case largely relies on the existence of an intervening fence on the shared boundary, coupled with the reduction of the floor levels by 800mm, in an attempt to avoid harm to the amenities of the neighbouring occupiers.
12. The parties are in dispute about the lawfulness of the boundary fence that has been constructed. The fence appeared relatively incomplete insofar as the lowered infill sections were mismatched with the upper parts and there were some obvious gaps. It was also being propped up by other timber posts at an angle. Despite that the appellant says that the fence was constructed in accordance with approved plans under a previous planning application, limited evidence has been provided of this. The Council's evidence appears to counter this suggestion and indicates that enforcement investigations are ongoing in relation to the same.
13. From the evidence, I have noted that the fence is referred to as 2.5 metres in height, whereas the appeal proposes that the extension, of a total 3.1 metres in height, would be completely obscured by the fence. Clearly, the fence cannot be both 2.5 metres high and capable of entirely concealing a 3.1 metre high

- extension. The consideration of the specific height of the fence and whether or not it has been lawfully constructed are not for my consideration as part of this appeal and no proof of its lawfulness has been submitted such as in the form of a Certificate of an Existing or Proposed Use or Development Under Section 191/192 of the Town and Country Planning Act 1990.
14. In my view, a 6 metre deep extension at the overall height of around 3 metres as proposed, positioned on the shared boundary with the unextended neighbouring dwelling at No 14 would result in harm to the neighbouring occupiers from a loss of outlook, and enclosing effects. I consider the fence to be visually dominant and even if the extension did not project as far as the end of the highest fence panels, its greater bulk and solidity would still create a tunnel effect when viewed from the neighbouring dwelling and upper garden area.
 15. Though limited evidence has been submitted to me specifically about whether the window closest to the fence should be considered 'protected' under the terms of the Harrow Supplementary Planning Document Residential Design Guide (2010) (SPD). The neighbouring occupier's objection indicates that the existing fence has resulted in a loss of light which I was not invited inside to assess. Despite this, I consider that the visual dominance of the fence, and the extension if allowed, would result in the neighbouring occupier's loss of outlook, with consequent effects on their living conditions of at least this nature.
 16. The appellant claims that an appeal case¹ is similar to the present scheme insofar as it proposes a rear single storey extension of a 6 metre depth. However, from my reading of that decision, there appeared to be an extension on the neighbour's side, and an intervening boundary fence, the lawful status of which did not appear to be uncertain, unlike the present case.
 17. Another appeal case for a 6 metre deep rear extension elsewhere in Thistlecroft Gardens² has also been brought to my attention. The differences between the cases appear to be in the sizes of the gardens as the extension in that case didn't lend to the neighbour's garden having an oppressive quality, whereas I regard that would be the case here. Furthermore, there was no reliance on the existence of a fence as a key mitigating feature, as is the case here.
 18. I have also considered a number of other cases highlighted by the Appellant³ where, having not seen those specific sites for myself and noting that each case must be considered on its own merits, I can only deduce that the descriptions of the respective generous garden sizes, orientations, levels, existing extensions and/or lawful boundary fences were reasons for those Inspectors finding those proposals to be acceptable. In this case, the relevant garden is a modest size and I have limited evidence on which to conclude that the fence between it and the site is a permanently fixed entity that could limit any additional harm from the proposed extension.
 19. Consequently, having particular regard to outlook, I conclude that the proposal would harm the living conditions of the occupants of No 14 Thistlecroft Gardens. Though not expressly relevant to a prior approval application, the proposal would therefore fail to comply with Policy DM1 of the Harrow Council

¹ APP/M4605/D/13/2206537

² APP/M5450/D/19/3238969

³ APP/M5450/D/16/3151383, APP/M5450/D/14/2229319 and APP/M5450/D/18/3213298

Development Management Policies (2013). This Policy requires that regard be given to high quality design and impacts on neighbouring occupiers.

Conclusion

20. For the foregoing reasons, the appeal is dismissed.

Hollie Nicholls

INSPECTOR