



Appeal Decision

Site visit made on 17 June 2023

by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st August 2023

Appeal Ref: APP/M5450/W/23/3316248

16 Thistlecroft Gardens STANMORE HA7 1PN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Chetan Patel against the decision of the London Borough of Harrow.
 - The application Ref P/2785/22, dated 28 July 2022, was refused by notice dated 17 February 2023.
 - The development proposed is Single Storey Rear Extension.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Chetan Patel against The London Borough of Harrow. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal form states that no decision notice was issued however after the appeal was submitted the Council posted on their website a 'decision notice' dated 17 February 2023 which gave the following reason:

The single storey rear extension by reason of its siting, height and excessive rearward projection, would appear highly intrusive and overbearing, and would result in loss of outlook, to the detriment of the residential and visual amenities of the occupiers of the neighbouring property at No. 14 Thistlecroft Gardens. As such, the proposed development would be contrary to the high quality design aspirations of the National Planning Policy Framework (2021), PolicyD3.D (7) and (11) of the London Plan (2021), Core Policy CS1.B of the Harrow Core Strategy (2012), Policy DM1 of the Harrow Development Management Policies Local Plan (2013) and guidance contained in the adopted Supplementary Planning Document: Residential Design Guide (2010).

As this notice was published subsequent to the submission of the appeal it is of no material effect, nevertheless, taken together with the Council's officer report, it is instructive of the Council's position which I have accounted for in the main issue.

4. The appellant has pointed to a change in the description of development used by the Council incorporating references to works to the patio area and demolition of outbuilding. However, given the outcome of this appeal the

implications of the differing descriptions is not a matter which needs to be considered.

5. Secondly, during my site visit, attention was drawn to a recently erected high fence along the shared boundary with No.14 Thistlecroft Gardens seemingly that which is referred to by the appellant as a 'permitted fence already built' in the appeal statement. I have not been provided with evidence of that approval; the description of development on permission P/2698/21 does not refer to a fence nor, as far as I am able to ascertain, does such a fence appear on any drawings relating to that permission. In consequence the assertion made by the appellant in 3(f) of the appeal statement referring to his communication with the Council's enforcement team that 'the fence had been erected in accordance to (*sic*) planning application P/2698/21' such that 'no remedial action was required' cannot be relied upon as a consideration in this matter.

Main Issue

6. The main issue is the effect of the proposed development on neighbouring users at 14 Thistlecroft Gardens.

Reasons

7. 16 Thistlecroft Gardens (No.16) is an extended semi-detached house within an area of similar housing. Its paired property, 14 Thistlecroft Gardens (No.14) is an unextended two-storey modest family house containing, from the plans provided, three bedrooms, and two main rooms on the ground floor. Due to the underlying topography the ground floor accommodation in both No.14 and No.16 sits above the natural ground level such that there are steps from ground floor to a patio area of No.14 which itself is set above the garden area beyond.
8. The appeal site has a significant planning history and the current proposal seeks to address the reasons for refusal, at appeal, of recent proposals, primarily in regard to the extent of the proposed single storey rear extension, with a reduction to 4m projection from the rear wall of No.16 and a height of 3m. Whilst the reduction in the projection of the proposed extension could reduce the harmful effects identified in previous decisions, the height of the proposal appears to be measured from the existing floor level of No.16, which is significantly above the level of the neighbouring outdoor amenity area, and thereby impacting users of both the outdoor amenity space and its kitchen; a matter to which I now turn.
9. The appellant lays significant stress upon the status of the kitchen as a non-habitable room by reference to the criteria set out in the Harrow Residential Development Guide. However this is not determinative of the impacts of what is proposed. In a small family dwelling with only two main rooms other than bedrooms, also noting that the kitchen is on the garden side of the house, there is a significant likelihood that such a room (which is only slightly smaller than the Council's criteria of 13m²) would not only be used for the preparation of food but also for its consumption. It is clearly possible to arrange such a room to contain a small table which could be used for sitting and eating or for individual tasks such as homework in which outlook and access to daylight are amenity factors. The window to that room is adjacent to the flank wall of the proposed extension and of a size intended to both admit daylight and provide an outlook. Taken together these factors indicate that the kitchen should be

- considered as part of the primary accommodation of the dwelling and not merely an ancillary or functional space to be disregarded.
10. The appellant refers to a 'fall-back position' of a raised patio and tall boundary fence, but, for the reasons I have stated, this is an argument which carries little weight, moreover even if the boundary fence has been permitted as appearing in Figure 1 of the appellant's statement of case (at 9 g) at 2.3m, the actual height of the fence panel appears to be significantly more than that shown, in the region of 3.0m. Consequently, if the proposed extension, albeit reduced to a 4m projection from previous proposals, were to extend to the height indicated, at 0.91m above the top of that fence¹, the resulting roof would be within a small fraction of a metre from the underside of the bedroom windows² shown which is not what the submitted drawings show.
 11. I note the appellant indicates shadow lines from the proposed extension in relation to the kitchen window. Whilst I am unaware as to the assumptions made in relation to the reported daylight calculations as to the height of the proposed flank wall/fence, nevertheless, the assumption that the effect of the extension on the daylight, sunlight or outlook available to the room identified as the kitchen of No.14 can be disregarded is not appropriate given my assessment as to the way that room is likely to be used, or could be used, by occupiers.
 12. The flank wall of the proposed extension would be in the region of 3.6m above the level of the adjoining patio, around twice the height of an average standing person. The impact of the proposal can to some degree be judged from the fence found on site at the time of my site visit, which is of similar height. Although the appellant intends to address previous concerns as to the size of the extension by reducing its projection to 4m, any benefit from that reduction would not be incurred as long as the existing high dividing fence is in place at its current height beyond the proposed extension.
 13. Whilst I note the appellant's references to permitted development, what is proposed would be significantly higher at the boundary even if there were no level difference. A flank wall which would be close to double the height of a standing person on the southern side of the main outdoor amenity area would be oppressive and overbearing notwithstanding its reduced length from what has been previously considered and a presumed adequacy of daylight/sunlight. The proposal would fail to comply with Policy DM1 of the Harrow Council Development Management Policies (2013) which, amongst other things, requires proposals to have regard to impact on neighbouring users.
 14. This conclusion is not inconsistent with previous appeal decisions brought to my attention. In addition, to the extent that there appear to be discrepancies between the drawings and what is found on site on the key issue of height, any 'plans' condition would be unenforceable such that even if my conclusions were different, it would not be appropriate to allow the appeal. Consequently, for the reasons given above and taking all matters raised into account, the appeal is dismissed.

Andrew Boughton

INSPECTOR

¹ Figure 1 of the appellant's statement of case (at 9 g)

² Drawing 16TH.ELEV.03