



Appeal Decision

Site visit made on 17 October 2023 by S Wilson LL.B. MSc MRTPI

Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 November 2023

Appeal Ref: APP/M5450/D/23/3317088

16 Thistlecroft Gardens, Stanmore, Middlesex 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 Schedule 2, Part 1, Class A, Paragraph A4 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Chetan Patel against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/2829/22/PRIOR, dated 30 July 2022, was refused by notice dated 8 September 2022.
 - The development proposed is described as: 'single storey rear extension 6m deep'.
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Applications for Costs

3. An application for an award of costs has been made by Mr Chetan Patel against the Council of the London Borough of Harrow. This is subject of a separate decision.

Preliminary Matters and Main Issue

4. The description of development has been changed by the Council and there is no evidence of an agreement therefore between the main parties. I have thus used the description as it appears on the application form which, in any event, adequately describes the development to which the appeal relates.
5. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Schedule 2, Part 1, Class A, Part A.4(7) require an assessment as to the impact of a given scheme on the amenity of any adjoining premises (living conditions), taking into account any representations received. This has formed the main issue, with specific regard to the occupants of No 14 Thistlecroft Gardens and their outlook.

Reasons for the Recommendation

6. The appeal property is a two-storey semi-detached dwelling. The adjoining dwelling to the north, No 14, has no rear extension and a kitchen located to the

rear with a window close to the boundary with No 16. There are steps down to a patio directly to the rear of No 14 and further steps down to a lower-level garden area. The rear gardens of both No 14 and No 16 are neither particularly long nor wide and face west-south-west. The gradient of the rear garden is mirrored next door at No 16 and slopes downwards. At the time of my visit the boundary fence between No 16 and No 14 cast shadow onto some of the rear amenity space at No 14.

7. The appellant has submitted a proposal that seeks to be sympathetic to the outlook of No 14 by lowering the scheme below current floor level. The proposed maximum height would compare favourably with GDPO allowances. However, the height of the proposal would be above the window head height at No 14. This height would be consistent for 6m along the shared boundary. Given the declining gradient of the rear gardens, the close proximity and height of the development, the proposal would dominate outlook from the kitchen window of No 14, making it oppressive and enclosing. Furthermore, the proposal would place the window at No 14 in shadow for some periods of the day. Whilst I cannot be certain that this would be prolonged and complete enough to be harmful to daylight levels, it would exacerbate the sense of enclosure.
8. The fact the kitchen window is not 'protected' for the purposes of the Harrow Supplementary Planning Document Residential Design Guide (2010) (the SPD) does not make the appeal scheme acceptable. Putting aside that this is guidance and not policy and relevant policies would in any event not be determinative for this prior approval case, I note that the window and room would not be so due to the kitchen concerned being less than 13 square metres. That said, it is the only window (the rear door aside) into the kitchen of No 14 and indeed into the rear ground floor of the dwelling. In addition, its floor space is only marginally below 13 square metres; 11.9 square metres according to the appellant's plans.
9. The appellant states that the fence is tall and the extension flank wall would be entirely concealed behind it. Whilst the appellant suggests the fence was granted permission under P/2698/21, it appears to be subject of investigations by the Council's planning enforcement team. In any event, the plan reference 16TH.ELEV.03 shows the maximum height at 3.1m, and importantly above the window head height at No 14, even with the drop in ground level. The fence is not up to this height, by some measure, and would not conceal the proposal. I remain to be convinced therefore that the fence would conceal the proposed development sufficiently to make it acceptable.
10. The proposal would harmfully affect outlook from within the kitchen at No 14. Accordingly, and as far as it is a material consideration to the main issue, it would fail to comply with the aims of Policy DM1 of the Local Plan, insofar as it seeks to safeguard the adequacy of outlook. Furthermore, there would also be conflict with the SPD insofar as it seeks to safeguard amenity.

Other Matters

11. In the case of APP/M5450/D/18/3213298 there was an existing rear extension of some 3.6m. The Inspector found no loss of outlook due to the height and length of the existing extension. For PP/M5450/D/19/3238969, the adjoining property was orientated to the south. In APP/MS450/D/20/3255560, the Inspector reasoned that adequate sunlight would reach the garden of No 14.

The main issue in this appeal is the effect on outlook. In the case of cases PP/M4605/D/13/2206537 and APP/M5450/D/16/3151383, the proposed extension would not be substantially taller than the existing boundary fencing. For APP/M5450/D/14/2229319, the Inspector concluded that a similar proposal would not be of a dominating nature. The orientation of that scheme impacted that decision. The orientation of the subject appeal is different.

12. I have assessed the scheme as presented against the specific criteria of the aforementioned legislative provisions. This assessment has been on its own merits and on its own specific locational circumstances with regard to whether it would comply or not. Whilst planning judgement has been used, the measurement is more binary than in the case of a scheme seeking express planning permission where other examples might be afforded more than limited weight.

Conclusion and Recommendation

13. For the reasons given above, I recommend that the appeal should be dismissed since it would fail against an assessment as to its impact on the amenity of any adjoining premises.

S Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

John Morrison

INSPECTOR