



Appeal Decision

Site visit made on 19 September 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2023

Appeal Ref: APP/T5150/D/23/3314170

10 Brent Way, Wembley HA9 6JN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mrs Sajedah Said Noor against the decision of the Council of the London Borough of Brent.
 - The application Ref 22/3468, dated 7 October 2022, was refused by notice dated 17 November 2022.
 - The development proposed is the erection of single storey rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) grants planning permission for the enlargement of a dwellinghouse subject to limitations and conditions.
4. Where an application is made for a determination as to whether prior approval is required for development which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g) to Part 1(larger home extension), paragraph A.4(3) provides that the local planning authority may refuse the application where it considers that the proposed development does not comply, or that the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with the conditions, limitations or restrictions that are applicable to such permitted development.
5. It is not in dispute that the proposal falls within the other limitations set out in Paragraph A.1. of Class A. However, where any objections are received to a proposal, the prior approval of the Local Planning Authority (LPA) is required as to the impact of the proposed development on the amenity of any adjoining premises as set out in Paragraph A.4(7) to Part 1.

6. An objection was received from the occupier of an adjacent property. The Council therefore considered the impact of the proposed development on the amenity of any adjoining premises, as required. The Council subsequently refused the application on grounds relating to the effects of the proposal on the living conditions of adjacent occupiers at No 12 Brent Way.
7. A rear extension was under construction at the time of my site visit. This did not appear to reflect the appeal scheme shown on the proposed drawings, nor the house as it previously stood on the existing drawings. For the avoidance of doubt, my decision is based on the plans before me.

Main Issues

8. The main issue is therefore whether prior approval should be granted, having regard to the effects of the proposal on the living conditions of the occupiers of No 12 Brent Way with particular regard to outlook and light.

Reasons

9. The appeal property is a 2 storey semi-detached dwelling, situated between No's 12 and 8 Brent Way (No 12 and No 8). It is situated within a residential street. To the rear, the property has a long garden, which has a boundary with No's 1 and 3 Chippenham Avenue (No 1 and No 3).
10. The proposed rear extension would have a complete flat roof at three metres in height. Its width across the rear of the host property would largely fill the width of the plot, but for a separation gap with No 8. The drawings show that the extension would directly abut the joint boundary with No 12 and there would be no gap with this property. It would therefore extend six metres beyond the rear walls along the joint boundary. Although patio type doors are proposed at the rear, the side elevations of the extension form solid walls.
11. The adjoining property at No 12 has two ground floor windows on its rear elevation. The larger rear ground floor window is positioned close to the common boundary with the appeal property. I was able to clearly see the rear of No 12 at the time of my site inspection, as the site boundary comprised low mesh panels.
12. The height of the proposal relative to the adjacent boundary, neighbour windows and garden at three metres height and six metres depth would be afforded no separation or other form of mitigation. It would be highly visible from both ground floor windows and within the garden area, and it would present an extensive blank wall which as a result of the above would feel enclosing. The extension would be an oppressive feature which would harm the outlook of the occupants of No 12.
13. Furthermore, although No 12 will overshadow its own garden at times, there would be some loss of early morning sunlight, which would exacerbate the oppressive effect of the development. The proposed extension would be larger than the one it seeks to replace, and the presence of a previous extension does not reduce the overall effect on the living conditions of the proposed development.
14. I note the Council did not find harm in respect of the adjacent neighbouring property or garden at No 8 Brent Way. Although it is understood that a development at No 6 has also been constructed, the council's officer report

advises that the proposed extension would accord with guidance within the Council's adopted Supplementary Planning Document Residential Extensions and Alterations Jan 2018 (SPD). The proposed extension would not project significantly further than the extension to No 8. Although there are windows on the rear, due to the separation gap it would only be visible in peripheral views within the dwelling, and this would be above the joint boundary fence. The remainder of the garden had a substantial boundary treatment, this and the separation gap would reduce the effects within the property and garden and would therefore not result in harm to the living conditions of the occupiers of this property.

15. The boundary to the properties situated to the rear of the application site at No 1 and No 3 are separated by the appeal garden. Because of the distance from the rear of the proposed extension, the effect on the living conditions of these occupiers would also be acceptable.
16. I conclude that the proposal would cause significant harm to the living conditions of the occupiers of No 12 Brent Way with particular regard to outlook and light. The proposed development would not cause harm to the living conditions of No 8 Brent Way and No's 1 and 3 Chippenham Avenue, but this does not outweigh the harm to No 12.

Other Matters

17. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. A resident at the property has protected characteristics for the purposes of the PSED, having regard to their age and disability.
18. It does not follow from the PSED that the appeal should succeed. I fully appreciate the health circumstances. However, there is insufficient specific evidence for me to draw a clear conclusion that the proposal, and in particular, the configuration and use of the whole development, is the only reasonable option available to provide a larger kitchen area and utility as shown on the drawings. As a result, taking all relevant matters into account, I can only give moderate weight to the personal circumstances identified by the appellant which does not outweigh the significant harm that I have identified with regard to living conditions. I am satisfied that the legitimate aim, to protect the living conditions of the occupiers of No 12 regarding outlook and light, can only be safeguarded by a refusal of prior approval.

Conclusion

19. For the reasons given, the appeal is dismissed.

K Williams

INSPECTOR