



Appeal Decision

Site visit made on 4 March 2024

by C Livingstone MA(SocSci) (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th April 2024

Appeal Ref: APP/T5150/W/23/3325644

3 Oak Gardens, Brent, Edgware HA8 5LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Ms Chelvi Bala, J & C Global Ltd against the Council of the London Borough of Brent.
 - The application Ref is 23/0521.
 - The development proposed is described as 'rear extension (prior approval) and side extension which will extend 4.5m beyond the existing rear wall together with internal alterations to create a single residential unit'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the submission of this appeal against non-determination, the Council stated the position it would have taken if it had made a decision. The following main issues were informed by the Council's statement of case.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the living conditions of the occupiers of 3 Oak Gardens and future occupants of the proposed studio in terms of privacy and fire safety;
 - whether the proposed development would deliver the required level of urban greening and a biodiversity net gain.

Reasons

Living conditions

4. The appeal property, 3 Oak Gardens is located in a primarily residential area in an accessible location. The property is two storey, semi-detached and is part of one of four semi-detached pairs arranged around a turning circle at the end of Oak Gardens. The existing boundary treatments around the rear garden currently ensure a degree of privacy for the occupants of the property. The proposed development includes the erection of flat roofed extensions on the side and rear elevations of 3 Oak Gardens, and subdivision of the garden, to allow for the formation of a separate studio flat and the extension of the host property.

5. The proposed studio flat would include a kitchen that would be served by a single window, on the rear elevation, that would look directly on to the remaining rear garden of 3 Oak Gardens. As this window would be at ground floor level it would result in a material degree of overlooking from the occupants of 3 Oak Gardens while they are in their rear garden. As such the proposal would have a harmful impact on the living conditions of the future occupants of the proposed studio in terms of privacy.
6. Rear gardens typically provide a private outdoor space for occupants to relax and socialise. The proposed development would result in a separate property with a kitchen window that would directly overlook the rear garden of 3 Oak Gardens and would impact negatively on the privacy of the occupants of this property, while using their rear garden. As the proposal would lead to mutual overlooking it would result in an uncomfortable arrangement between the two properties.
7. Policy D12 of the London Plan requires that all development proposals achieve suitable fire safety standards including adequate access for fire appliances and that they are constructed in an appropriate way to minimise the risk of fire spread. There is no evidence before me to demonstrate that the proposed development would meet fire safety standards.
8. For the reasons detailed above, the proposed development would have a harmful effect on the living conditions of the occupiers of 3 Oak Gardens and the future occupants of the proposed studio in terms of privacy. There is also no evidence to demonstrate that the proposed development would meet fire safety standards. Therefore, the proposal is contrary to Policies D6 and D12 of the London Plan 2021 (LonP) and DMP1 of the Brent Local Plan 2019-2041 (BLP) that require development provides high levels of internal and external amenity for occupants and achieves the highest standards of fire safety.

Urban greening and biodiversity

9. The information submitted in support of the appeal does not include a landscaping plan or an ecological appraisal. Policies BGI1 of the BLP and Policy G6 of the LonP require that all development enhances biodiversity and delivers a biodiversity net gain. There is no evidence before me to demonstrate that the development would meet these requirements.
10. The Council also recognise that over time development and the intensification of land use has resulted in a reduction of incidental green infrastructure. An aim of Policy BH4 is to increase the quantity and quality of green infrastructure and requires that all minor residential developments deliver an Urban Greening Factor of 0.4 on site. This is a calculation outlined within Policy G5 of the LonP, which gives a numerical value to the differing land uses within an application site. There is no information or evidence before me to demonstrate that an Urban Greening Factor of 0.4 would, or could, be delivered on site.
11. There is no evidence before me to demonstrate that the proposed development would result in a biodiversity net gain or would deliver an Urban Greening Factor of 0.4 on site. As such the proposal is contrary to Policy G6 of the LonP and Policies DMP1, BGI1 and BH4 of the BLP

Other Matters

12. The Council has suggested reasons for refusal which include a failure to demonstrate that an internal ceiling height of 2.5m could be achieved within the proposed studio. I note that no internal sections were submitted in support of the proposal. However, the proposed extension would be approximately 3m high, in my judgement it would be possible to achieve an internal ceiling height of 2.5m within the proposed studio.
13. The Council also suggested a reason for refusal based on the removal of existing trees within the site. However, there is a sufficient separation distance between the proposed extensions and existing trees that would allow the property to be extended without the removal of existing mature trees within the garden.
14. If I was minded to allow this appeal, a minimum internal ceiling height and protection of existing trees within the site could be controlled by condition.
15. I note that the appellant is aggrieved with the Council's handling of their application. However, this is a matter between the parties that does not fall within the remit of this appeal. I have therefore given it no weight in my determination.

Conclusion

16. For the reasons given above the appeal should be dismissed.

C Livingstone

INSPECTOR