



Appeal Decision

Site visit made on 29 July 2024

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th August 2024

Appeal Ref: APP/M5450/W/24/3339088

36 Bellfield Avenue, Harrow HA3 6SX

- 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 Mr & Mrs Raj Thakrar against the Council of the London Borough of Harrow.
 - The application Ref is P/2115/23.
 - The development proposed is proposed extension, loft and internal re-arrangement.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council did not determine the application. However, it has indicated that had it been able to issue a decision, it would have refused permission on the grounds that the proposal would result in material harm to the living conditions of occupiers of 38 Bellfield Avenue (No 38) with particular regard to outlook.

Main Issue

3. The main issue is the effect of the proposed extension on the living conditions of the existing occupants of No 38, with particular regard to outlook.

Reasons

4. The appeal property (No 36) is a detached bungalow with a dormer to the front and rear roofslope. It is set back from Bellfield Avenue by its garden and driveway, with its main front elevation set behind the front wall of its immediate neighbour No 38, a large detached two-storey dwelling. The central section of the main rear elevation of No 36 is recessed, with either side terminating approximately in line with the main rear elevation of No 38.
5. Ground levels rise from Uxbridge Road towards Bellfield Avenue with No 38 set higher than the appeal property. Whilst the rear elevation of No 36 is set approximately 4 metres beyond the main rear wall of No 38, the differences in house typology and ground levels results in No 38 having an unobstructed outlook from rooms within its upper floors.
6. The proposed development would result in an upward extension of the main body of No 36 and create an upper floor across the whole footprint of the existing dwelling. The Council contends that the proposed extension would fail the 45-degree code (45-degree line) as stated within the Council's Supplementary Planning Document: Residential Design Guide 2010 (SPD). The purpose of this,

amongst other matters, is to ensure that the size and siting of buildings avoid having an overbearing visual impact upon the living conditions of occupants when viewed from within neighbouring buildings or amenity spaces.

7. I note that No 36 currently infringes the 45-degree line, however, given that the dwelling is predominantly single-storey, its mass is largely set below the upper floor windows of No 38. This would not be the case with the proposed extension. Even if windows within the first floor of No 38 do not directly face No 36, the proposed extension would project beyond its main rear wall. The projection and overall height would result in a large expanse of brickwork being visible from the rear first-floor windows of No 38. Given the extensions infringement beyond the 45-degree line, this would have an overbearing impact on the existing occupiers. It therefore follows that the proposed extension would cause harm to the living conditions of those occupants of No 38, particularly in terms of outlook.
8. Given the positioning of the dormer of No 38 within the roofslope, its distance from the shared boundary and the difference in ground levels, the proposed extension would not be as overbearing to the occupants of No 38 when within the roof level as the Council contends.
9. I have found the proposed extension would provide acceptable living conditions, with particular reference to outlook for occupiers of No 38 from within the roof level. However, this would not be the case for its occupants when within the first floor. Accordingly, the proposal would be contrary to Policy D3.D(7) of the London Plan (2021), Policy CS1.B of the Harrow Core Strategy (2012) and Policy DM1 of the Council's Development Management Policies (2013). These collectively seek to ensure that the massing, bulk, scale and height of proposed buildings do not impact on the amenity of neighbouring occupiers. There would also be conflict with the Framework insofar as it seeks to create places with a high standard of amenity for existing users. It would also conflict with the SPD insofar as it seeks to ensure the size and siting of buildings avoids having an overbearing visual impact upon the living conditions of occupants.

Other Matters

10. The appeal site is located on the edge of the West Drive and Bellfield Avenue Conservation Area (CA), and as such I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). The immediate character of the CA surrounding No 36 is a mix of predominantly detached 20th and 21st century suburban architecture within verdant surroundings. The existing bungalow is set back from Bellfield Avenue and behind the main elevation of its immediate neighbours. The existing dwelling has a neutral effect on the CA. Given the proposed scale and design would be similar to that of No 38, and others within the immediate context, the proposed extension would also have a neutral effect, and this preserves the character and appearance of the CA.
11. The Council's SPD clearly states that the 45-degree line is taken from the nearest first floor or two-storey corner of a neighbouring building. Even if other Local Authorities in London use different points at which they measure the 45-degree line, this is not determinative in my assessment.
12. Despite Nos 34 and 38 having had planning permission to construct dwellings, and No 36 being set behind their rear elevations, I have nothing before me to demonstrate that the appeal premises cannot extend, or that its position within

the site is so exceptional to warrant the proposed extension at the expense of the living conditions of occupants within No 38.

13. I sympathise with the appellant with regard to the service provided by the Council. However, this is not within the scope of my assessment which must focus on the planning merits of the appeal proposal.
14. I note that the appeal is a resubmission of a preceding planning application Ref P0556/23. From the evidence before me, the reason for its refusal is clear in that it failed to comply with, amongst other matters, Policy DM1 of the Council's DMP, and its SPD. Whilst the refusal did not specifically refer to the 45-degree line, Policy DM1 Part D, Criterion d. and the SPD does outline the 45-degree line.

Conclusion

15. For the reasons given above, the proposal conflicts with the development plan as a whole, and there are no material considerations that lead me to find other than in accordance with it. Consequently, the appeal is dismissed.

L Clark

INSPECTOR