



Appeal Decision

Site visit made on 28 May 2025

by **John D Allan BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 June 2025

Appeal Ref: APP/T5150/D/25/3364194

7A Willesden Lane, Kilburn, Brent, London NW6 7RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Chaudhry against the decision of the Council of the London Borough of Brent.
 - The application Ref is 25/0222.
 - The development proposed is extension of dwelling upwards to provide an additional storey as well as a mansard roof to provide two additional levels to dwellinghouse.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal upon the living conditions at 21 and 22 St Julians Road, with particular regard to visual impact.

Reasons

3. The appeal relates to a new build, three-storey house including basement facing Willesden Lane. It is flanked on one side by a recessed three-storey side wing to the much taller four-storey building (including basement) at 7 Willesden Lane, and the tall bulk of a former cinema to the other. The dwelling is recessed on its plot and at ground and first-floor is set around 2m away from its rear boundary where it adjoins the rear garden of 22 St Julians Road, a four-storey terraced building with a half-basement and mansard roof occupied as four flats. This neighbouring outdoor amenity space is solely accessed and used by the lower ground floor flat. The proposal is to add a second storey and mansard roof to the appeal property.
4. The existing first-floor rear windows to No 7A are obscurely glazed. During my visit I was able to look out from an open first-floor window and observe the relationship with the adjoining garden at 22 St Julians Road, and its neighbour beyond at No 21. I was also able to gain access to the rear garden at No 22 and observe the relationship from that viewpoint as well as the overall context of the rear garden setting.
5. The rear boundary of the appeal site, along with the full width of the dwelling, spans the majority depth of the rear garden to No 22. The side of the garden adjacent to the appeal site is bound, in my estimate, by an approximate 3m high wall with a further approximate 1.2m high fence above. The same encloses a small open patio

to the rear of No 7A, accessed from its basement level. When observed from the rear of No 22, the side enclosure screens roughly half the height of the ground floor elevation of No 7A. When taken with the elevated fence to the cinema site at the foot of the garden with the bulky and expansive four-storey scale of the former cinema building beyond, along with the scale of the terrace itself along St Julians Road and an approximate 4m high boundary enclosure to the opposite side adjoining the garden to No 21, I observed a strong degree of confinement and feeling of constraint within the rear garden setting.

6. The appellant has submitted a comprehensive set of 'Waldram Diagrams' which consist of a view of the sky taken from the outlook of all of the rear facing windows at No 22 with buildings plotted. A comparison can be made between the before and after versions, with the additional height proposed at No 7A shown. In the rear facing outlooks, I agree that views are already dominated by existing buildings and that when seen obliquely, the additional height of No 7A would alter little in terms of visible sky.
7. However, as recognised by the appellant, the diagrams are only able to generate views from existing windows. There is no comparison made of the impact upon the rear garden. The aspect from this outdoor amenity space is appreciated in a wholly different context where the visual experience is determined by what is perceived on all sides rather than within a contained outlook directed largely over the garden. In my judgement, when stood within the garden to No 22, the increased height of No 7A, through a full additional storey and mansard roof over, would be conspicuous and domineering at extremely close quarters. The restricted height and flat roof form of 7A offers a degree of respite in an already tightly enclosed setting. Regardless of whether or not the additional height would affect levels of daylight or sunlight to the adjoining garden, its increased scale would impose itself further as a far greater overbearing presence. This would affect the neighbour's living conditions by diminishing their enjoyment of their rear garden amenity.
8. The appellant has pointed out that the existing building was constructed in the knowledge that the Council's 45-degree rule, as set out within the *Brent Design Guide SPD1*, was breached. This states that where a development adjoins private amenity/garden areas, the height of the building should normally be set below a line of 45-degrees at the garden edge, measured from a height of two metres. I note from the officer's report which informed the planning permission for the house in 2020 (Ref 20/0927) a balanced decision was made, with consideration given to the sense of enclosure that was already existing at that time. I am mindful that that judgement was made when the appeal site was vacant. That is no longer the case. The dwelling, as built, clearly imposed further enclosure, albeit considered to an acceptable degree. In my opinion, the current proposal would unacceptably tip the balance. Although the SPD provides guidance only, I find nothing about the rear garden setting at No 22 to suggest the guidelines should be simply set aside, especially where the degree of infringement would be severe.
9. The appellant has argued that consideration should be given to the benefits of the proposal. I observed that the existing dwelling provides a good quality three-bed family home. I have been presented with no substantive evidence to explain what benefit would be achieved from a larger five-bed property. To suggest that the proposal would offer a better architectural solution implies fault with the existing. I found nothing about the scale or appearance of the dwelling that was visually

unappealing and in need of improvement. I accept that when seen in the street scene, the appeal proposal would sit comfortable, but with no obvious improvement to the existing building, merely a difference in scale, such an argument weighs neutral in any planning balance.

10. I have noted some cases that have been put to me where planning permission has been granted for upwards extensions of buildings, including where the 45-degree test has been breached. I do not know the precise details of any of these. Nevertheless, in those cases there was judged to be no significant harm. That does not reflect my findings having regard to the context of the appeal case.
11. Nothing that has been put to me outweighs the harm that I have identified to the living conditions of the neighbouring occupiers at 22 St Julians Road due to the height and proximity of the proposed extension to the adjoining garden. The neighbouring garden at No 21 would be less affected due to the increased degree of separation but that does not reduce the level of harm that I have identified at No 22. By failing to provide a high level of external amenity, the proposal would conflict with Policy DMP1 of the Brent Local Plan 2019-2041(2022). For the same reason there would be conflict with the National Planning Policy Framework's objectives for achieving well-designed places.

Other Matters

12. The appeal site is adjacent to the secondary frontage of the former Gaumont State Theatre, a Grade II listed building. The proposal would result in a remodelled dwelling that would be sympathetic in its setting when seen along Willesden Lane. Given also the gap between it and the cinema building, and the fact that the elevation facing Willesden Lane does not form the former cinema's principal elevation, I am satisfied that there would be no harm to the setting of the nearby listed building.

Conclusion

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

John D Allan

INSPECTOR