

Appeal Decision

Site visit made on 28 September 2016

by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 October 2016

Appeal Ref: APP/T5150/W/16/3154997

23a Victor Road, London NW10 5XB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Emily Townsend against the decision of the Council of the London Borough of Brent.
 - The application Ref 16/0367, dated 28 January 2016, was refused by notice dated 25 May 2016.
 - The development proposed is described as a rear extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on living conditions of occupants of neighbouring properties.

Reasons

Description of proposal

3. 23 Victor Road is a mid-terraced two-storey Victorian house converted into two 1 bed flats. The area contains a fairly high density of similar dwellings several of which have existing two-storey rear outriggers with, in some cases extra extensions to the rear and/or within the side returns. The proposed rear extension has two distinct single storey elements: a side infill extension, and a rear extension proper, to the ground floor flat, No 23a.

Side infill extension

4. Policy BE9(e) of the Brent Unitary Development Plan 2004 (UDP) requires new extensions among other matters to provide a satisfactory level of sunlight and daylight, privacy and outlook for existing and proposed residents.
 5. The Council does not rely on that part of the Supplementary Planning Guidance 5: *Altering and Extending Your Home* 2002 (SPG) which proscribes single storey side extensions to houses with existing two-storey rear sections. Due to recent appeal decisions it has developed an "established" set of parameters for allowing infill extensions. Their status is unclear but the proposed 2.4m eaves height would exceed the 2m maximum now permitted by the Council.
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6. The new side extension would be on the north-east side of the neighbouring side extension at 21 Victor Road which is a short infill single storey addition with an eaves height of 2.7m and a maximum height of 3.35m. The maximum height of the new side extension would be 2.64m but it would project a further 0.9m beyond that of its neighbour. The side extension at No 21 has obscure glazing in the door on its rear wall, accessing a room with openings that face away from the proposed extension.
7. I take into account that the purpose of the parameters is to ensure that extensions maintain a height and mass that is not overbearing to neighbouring owner/occupiers. From what I saw during my site visit, I do not consider that the new side extension would have an unacceptably detrimental impact in terms of loss outlook or loss of light.

Rear extension

8. In the case of the proposed single storey rear extension the Council does rely on SPG and states that for terraced properties these should be no deeper than 3m with an average height of 3m, whereas the new rear extension would be 4m deep and about 3.1m tall. My reading of the SPG is that the average height relates to a pitched roof and the maximum height for a flat roof, as proposed here, should be 3m. Also, contrary to the Council's statement the SPG states that the maximum depth for such extensions on terraced houses is 2.5m, as the appellant acknowledges. The new rear extension would not comply with SPG but it is not explained what specific harm would be caused.
9. There may be larger extensions in Victor Road but I have no information as to their status or particular context. The SPG is several years old. It does not displace relevant policies of the development plan but it is a material consideration in this appeal, particularly where it connects with a key aim of the National Planning Policy Framework (Framework) at Paragraph 17 to seek a good standard of amenity for all existing and future occupants of buildings.
10. The permitted development legislation does not provide an appropriate analogy so as to discount the height of the proposed parapet wall: when calculating the height of the part of the house enlarged, national guidance advises that one would normally measure the highest part of the enlargement that may "include any protrusions above the roof such as parapet walls etc."¹ In any event the aim of the SPG is clear, at Paragraph 2.1 to ensure that new extensions do not have an unacceptable impact on neighbours. The new parapet has the potential to affect neighbours as much as the main element of the roof.
11. 25 Victor Road has a single storey rear extension about 2.4m deep with a window and door to the north elevation. The submitted plans do not show the relationship between that window, which appears to be to a habitable room, and the proposal. The side elevation plans, with sections through No 25², show the new extension projecting 1.5m beyond the rear addition at No 25 and the flat roof at a height above that of the sloping roof at No 25.
12. The appellant has referred to the 45 degree rule of thumb³, whose application is a useful tool, both to prevent excessive daylight loss and to ensure that

¹ Permitted development rights for householders: Technical Guidance. April 2016. Department for Communities and Local Government. Page 11

² Incorrectly labelled as rear elevation

³ As set out in the BRE document: Site Layout Planning for Daylight and Sunlight: A guide to good practice (2011)

outlook from a neighbouring dwelling is not unacceptably affected. It is accepted that the ground floor window in the rear extension of No 25 would, by reason of the geometry, break the 45 degree line as applied to the proposed extension. Although other openings exist to the rear of No 25, from my own observations the proposal would result in a significant and undesirable loss of outlook from the window at No 25 and the space outside it.

13. The new rear extension would not be to the north-east of the affected neighbouring property, namely No 25, as suggested, but north-west of it. Having regard to the size and position of the affected window, it is my view that the proposal would not significantly diminish the natural light that would enter it. However it appears to me likely that it would lose some direct sunlight in the later hours of summer days as a result of the increase in depth and height of the proposal over the existing rear extension. This adds to my concerns.
14. Consequently, I find that that the extra 1.5m in depth, the excessive height of the new rear extension and its proximity to the site boundary, would be unneighbourly and an unjustified addition to the host property. It would create an overbearing impact and loss of outlook for occupants of 25 Victor Road, contrary to the aims of SPG, UDP Policy BE9 and the aims of Paragraph 17 of the Framework which I have described above.
15. Policy BE2 focuses on prevention of harm to the character and appearance of an area and as such is not relevant to the Council's objections on the main issue. I accept that the proposal would comply with the policy, however this factor does not affect my conclusion on the main issue.

Other Matters

16. Whether, had the property remained unconverted, a larger extension could have been applied for, is not relevant to consider, there being no evidence of any firm intention to revert to a single dwelling.
17. It is not demonstrated how the existing flat fails to provide sufficient space for a one bedroom flat that would meet relevant space standards. Although the extra accommodation would be a benefit, it is a limited benefit and does not outweigh the harm to living conditions of neighbouring occupiers.
18. No objection was made by the occupiers of No 25. However this does not in itself weigh in favour of the proposal: the planning system works in the wider public interest such that the effect of new development on future as well as present occupiers of affected property must be considered.

Conclusion

19. For the above reasons and having regard to all other matters raised the appeal is dismissed.

Grahame Kean

INSPECTOR