
Appeal Decision

Site visit made on 12th December 2016

by Jonathan G King BA(Hons) DipTP MRTPI

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

Decision date: 22nd December 2016

Appeal Ref: APP/F5540/D/16/3160631
242 Woodland Gardens, Isleworth TW7 6LT

- 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 Mr Atul Banerjee against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 01228/242/P5, dated 30th April 2016, was refused by notice dated 20th July 2016.
 - The development proposed is a single-storey rear extension, 3.95 metres deep x 2.98 metres eaves height x 2.695 metres wide.
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Decision

1. The appeal is allowed and planning permission is granted for a single-storey rear extension, 3.95 metres deep x 2.98 metres eaves height x 2.695 metres wide at 242 Woodland Gardens, Isleworth TW7 6LT in accordance with the terms of the application, Ref 01228/242/P5, dated 30th April 2016, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be constructed in accordance with the approved plan: drawing No AQQ/89-04, dated 03/16.
 - 3) The materials used in the construction of the external surfaces of the development hereby permitted shall match those of the adjoining permitted rear extension.

Main Issues

2. The main issues in this case are:
 - (a) the nature of the development and the scope of the appeal; and the effect of the proposed development on:
 - (b) the character and appearance of the host dwelling and its setting; and on
 - (c) the living conditions of neighbouring occupiers.

Background and clarifications

3. The application form describes the proposed works thus:

Single-storey rear extension, 3.95m deep x 2.98m eaves height x 2.695m wide.

This description is then supplemented by the following information:

As per the note on the proposal drawing, the overall rear extension to be built comprises a 6m-deep element and a 3.95m deep element.

However, this planning application does not seek approval for the 6m-deep element, which has been certified by the LPA as 'prior approval is not required' on 07/10/2015 (ref 01228/242/PA2).

This planning application seeks approval only for the 3.95m-deep element, with 2.98m eaves height and 2.695m width.

Note that the 3.95m-deep extension will be approximately 830mm deeper than the existing conservatory extension and approximately 85mm deeper than the neighbouring extension at 242A presently under construction.

4. The decision notice simply describes the development as *erection of single-storey extension to the house* and refers to the submitted plans.
5. The plans show an L-shaped rear extension, comprising a 6 metre deep element and a 3.95 metre deep element but, as indicated by the information on the form, states that the application (and so this appeal) relates solely to the latter and explicitly omits the former.
6. The council officer's report acknowledges that the erection of a 6 metre deep extension has been agreed under the prior approval provisions of the General Permitted Development Order (GPDO). However, it states that as this has not been built, but is shown on the submitted plans, it must be considered as part of the application as the entire project cannot be built as Permitted Development (PD). The refusal has consequently been based on the impact of the whole of the L-shaped extension.
7. At the time of my site visit, the larger element of the extension had been substantially constructed with most external brickwork and the flat roof in place. The glazing and internal fitting out remained to be completed; and the north-westerly side, on to which the proposed extension is intended to be built, remained largely open.

Reasons

The nature of the development & scope of the appeal

8. It is clear from the application plans that the two elements of the intended development together comprise a single extension in both physical and functional terms. However, notwithstanding that a 6 metre deep extension of the width indicated could be built as PD, the smaller adjoining element requires separate planning permission. The application for that smaller element as submitted is predicated on the larger part having been substantially constructed first, so that the two can practically be linked. Neither could be built and used alone.
9. Notwithstanding that the appellant had sought the Council's confirmation that an application in the form submitted would be acceptable, the Council's approach has been to consider both elements of the extension as if they were

the subject of the planning application which is the subject of the appeal. That was a unilateral decision. The appellant's statement indicates that no consent had been given for the application to be treated in this way; and the appeal form states that the description of the development has not changed from that given on the application form.

10. My opinion is that, while it may have been correct for the Council to take the view that the whole of the extension requires planning permission, notwithstanding that a large proportion of it could be built as PD, it does not have the power to refuse permission for a development which has not been the subject of an application. To my mind, it should have either obtained the agreement of the applicant to consider the whole extension, or it should have considered the smaller element alone. In the latter instance, the stated intention of the applicant to construct the larger part as PD, and the consequent cumulative impact would have been material considerations.
11. Matters have since moved on, inasmuch as the basic structure of the permitted part of the extension has now largely been built and so is no longer merely hypothetical. To all intents and purposes, the PD extension exists, albeit in an incomplete state. Consequently, the appeal effectively relates to an extension to the house that would link in to a partially-completed extension built as PD. I take the view that it would make no practical sense for the permitted part of the development to have to be completed in advance of this appeal decision. As the appellant says in his statement, such piecemeal development would lead to uncertainty, inconvenience and structural and constructional compromises.
12. Against that background, I have concluded that this appeal should consider the smaller element of the extension alone. The larger element, though incomplete, is lawful and does not form part of the development subject to this appeal. Its existence is nonetheless a material consideration.

Character and appearance

13. The existing house has been extended in the past to the side on the ground, first floor and roof levels. The Council has agreed that it may lawfully be further extended to the rear. There is no doubt that the degree to which it has already been extended is considerable.
14. The proposed extension would be moderate in scale and, as it would be set in considerably from the rear wall of the 6 metre deep element, would have very limited additional impact on the appearance of the house. It would not be visible from the front; and owing to the distance to housing to the rear and intervening boundary planting, it is unlikely to have any significant visual impact from that direction. It would be seen from the upper windows of No 242A, but otherwise would not be readily visible in views from that property or from No 240 on the other side. It would not, as asserted by the Council, harm the appearance of the area.
15. Contrary to the first reason for refusal, I conclude that the proposed extension would not be excessive in scale, nor would it be obtrusive or overly dominant. It would add to the size of the house and its historic and recently constructed extensions, but not to the extent that any material harm would be caused to the character or appearance of the dwelling or the locality. Whether considered alone or cumulatively with earlier extensions and that presently

under construction, it would have no material impact on the character or appearance of the dwelling or its setting.

Living conditions

16. The proposed extension would have no material impact on the occupiers of the adjoining semi-detached house, No 240, since the lawfully-constructed larger part would be in between. The effect on the occupiers of No 242A, to the other side, would be negligible, since that house has a single storey projection to the rear approximately the same depth as what is presently proposed. There would be little or no material visual intrusion or loss of light to the house or its garden.

Overall conclusions and conditions

17. It is plain from the council officer's report that the reasons for refusal relate principally to the effect of the 6 metre element of the extension rather than to the smaller part which is the subject to this appeal. The Council has therefore misdirected itself. The proposed development would not in my opinion be contrary to the provisions of Policies CC2 or SC7 of the Local Plan. At 3.95 metres in depth, it would be around 30cm deeper than the maximum depth indicated in the Council's *Residential Extension Guidelines*. But as I have found no harm by reference to my main issues, I find that, in context, the development is acceptable.
18. The Council has suggested that, should the appeal be successful, conditions should be imposed relating to the timescale for commencement; to the use of matching materials and to the development being carried out in accordance with the approved plans. In the interests consistency I have revised the second to refer to the materials used in the newly-built extension rather than the house, but I do not consider that any further conditions are required.

Jonathan G King

Inspector