
Appeal Decision

Site visit made on 1 November 2016

by R J Perrins MA MCMI ND Arbor TechArborA

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

Decision date: 05 January 2017

Appeal Ref: APP/L5810/W/3141150

80/82 St Margarets Grove Twickenham TW1 1JG

- 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 Susan Brookes and Paul Connolly against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 14/5328/HOT, dated 24 December 2014, was refused by notice dated 23 October 2015.
 - The development proposed is a joint application for rear extensions.
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Decision

1. The appeal is allowed and planning permission is granted for a joint application for rear extensions at 80/82 St Margarets Grove Twickenham TW1 1JG in accordance with the terms of the application, Ref 14/5328/HOT , dated 23 October 2015, subject to the following conditions: .
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 511/001; 511/002 Rev A; 511/003 Rev A; 511/004 Rev B; 511/005/Rev B; 511/102 Rev A; 511/103 Rev A; 511/104 Rev A; 511/105 Rev B; 511/106 Rev A; 511/107 Rev A.
 - 2) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing buildings.

Application for costs

2. An application for costs was made by Susan Brookes and Paul Connolly against the Council of the London Borough of Richmond-upon-Thames. This application is the subject of a separate Decision.

Reasons

3. I consider the main issue in this case to be whether or not a planning obligation would be necessary to secure the implementation of the development in its entirety with particular regard to the living conditions of occupiers at No 80.
4. There is some planning history to the site and this appeal runs at the same time as two others¹. Those appeals have been made against the Council's serving of an enforcement notice to secure removal of the extension built at No

¹ APP/L5810/C/3144115 & APP/L5810/W/16/3148616

82 and an application from the owners of No 80 to build a single storey extension mirroring that at No 82 and using the party wall as built. In effect resulting in the same development as proposed here. In addition to this, the owners of No 80 have secured a written notice that prior approval is not required for a single storey extension 6 metres in depth and 2.8 metres in height (ref:16/1175/PDE).

5. The development has already been part built and there is no dispute that the development proposed, if it were to be completely built out, would be acceptable and in accordance with the development plan. However the Council express concerns that there is no guarantee that the development, which retains that already built at No 82, would be built. That is to say if the owners of No 80 decided not to implement the permission in full, the existing extension at No 82 would continue to have an unacceptable effect on the living conditions of occupiers of No 80. That in turn would be contrary to Policy DM DC5 of the London Borough of Richmond upon Thames Development Management Plan (2011) which seeks, amongst other things, to protect adjoining properties from visual intrusion and overshadowing. That is reflected by Policy CP7 of the London Borough of Richmond upon Thames Core Strategy which seeks developments that maintain appropriate levels of amenity. In addition it would be at odds with the Local Plan Supplementary Planning Document *House Extensions and External Alterations* (SPD).
6. I accept that there is some doubt as to the deliverability of the remaining part of the development (the extension at No 80) given the circumstances of the owners of that property at the time the application was made. Ideally both extensions should be built simultaneously following a joint application for planning permission. In addition the Planning Practice Guidance sets out that a condition requiring a development to be carried out in its entirety would fail the test of necessity. Therefore a Section 106 Agreement would be an appropriate method to ensure the development came to fruition.
7. However, I have found, when considering the enforcement appeal (ref: 3144115) on ground (a) that the existing extension, given the particular circumstances of Nos 80 and 82, has not resulted in unacceptable harm to the living conditions of occupiers of No 80. The development at No 82 has had some impact on the living conditions of occupiers of No 80 but not unacceptably so and would not be contrary to the aforementioned policies. Moreover, as set out in that decision, given the efforts gone to by the owners of No 80 to secure permission for a rear extension it is likely that an extension would be built at No 80 in any event.
8. Matters such as living conditions are subject to judgment and whilst the Council have set out that they consider the current development to be unduly prominent and overbearing I do not agree when set against that already permitted as explained in the enforcement appeal decision. For these reasons I find that an obligation would not be necessary to make the development acceptable in planning terms. Even if the remainder at No 80 were not built, unacceptable harm has not occurred.
9. I do not therefore, consider a condition restricting the completion of development to 12 months to be necessary and as the development has already commenced a condition covering a commencement period is not necessary either. Conditions that the development is built in accordance with

the approved plans and to ensure matching materials are used are necessary for the avoidance of doubt and to ensure the character of the locality is not harmed.

10. For the reasons given above and having considered all matters raised I conclude that the appeal should be allowed.

Richard Perrins

Inspector