
Appeal Decision

Site visit made on 19 December 2016

by George Arrowsmith BA, MCD, MRTPI

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

Decision date: 11th January 2017

Appeal Ref: APP/Q5300/D/16/3160983 79 Uplands Way, London, N21 1DU

- 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 Aristotelis Towli against the decision of the Council of the London Borough of Enfield.
 - The application Ref 16/02273/HOU, dated 25 May 2016, was refused by notice dated 25 July 2016.
 - The development proposed is the erection of a summerhouse and pergola at rear.
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Preliminary Matters

1. The description of the proposal on the application form is a narrative which includes a description of the circumstances surrounding the proposal. I consider that the simplified description used by the Council in their refusal notice is accurate and excludes the redundant information. I have used it in my decision.
2. The summerhouse and pergola have already been built without the benefit of planning permission. The application plans show the summerhouse being retained as built but show changes to the pergola.

Decision

3. The appeal is allowed and planning permission is granted for the erection of a summerhouse and pergola at the rear of 79 Uplands Way, London, N21 1DU in accordance with the terms of the application, Ref 16/02273/HOU, dated 25 May 2016, subject to the following condition:

The development hereby permitted shall be carried out in accordance with the following approved plan: Drawing No UWE/T/1 as amended on 10 May 2016.

Main Issue

4. The main issue is whether the pergola would cause a significant loss of light and outlook and create a significant sense of enclosure for the neighbouring residential property at 81 Uplands Way

Reasons

5. The Council accept that the summerhouse does not have a detrimental impact on the character of the surrounding area or on residential amenity. The

occupants of the neighbouring residential property at No 81 object on the grounds of its proximity to the boundary and fumes from a chimney. Whilst I acknowledge their concerns they are not shared by the Council and I do not think they carry sufficient weight to justify a refusal of permission. In addition my decision relates to what is shown on the submitted plans which do not show a chimney.

6. The pergola as proposed would extend just over 6m beyond the original rear elevations of the appeal property and the attached semi-detached house at 81 Uplands Way. As such it conflicts with the relevant 3m criterion in policy DMD11 in the Council's Development Management Document. Even so, it would extend only 2.6m beyond No 81's existing rear extension which abuts the boundary between the two properties. Its actual impact would therefore be less than suggested by the 6m measurement. Policy DMD11 recognises this situation by allowing extensions of a depth greater than 3m where an extension secures a common alignment of rear extensions. However, the appeal proposal does not satisfy this alternative criterion. DMD11 also specifies that an extension should not impinge on a 45 degree line drawn from the mid-point of the nearest original ground floor window. I have reservations about measuring the angle from the position of No 81's original ground floor windows given the position the nearest windows as they now exist. Nevertheless, the pergola would probably still extend beyond a line drawn at 45 degrees from the centre of these existing windows and would affect the outlook from them.
7. In assessing the impact of the pergola on No 81's windows and on the outdoor area immediately to the rear of that house it has to be recognised that it is probably not the type of structure the Council had in mind when formulating policy DMD11. It would be a relatively open structure with an effective depth (when measured from No 81) of only 2.6m and a maximum height of 3.3m reducing to around 2.75m at its outer limit. The fluted polycarbonate canopy would have some effect on the amount of natural light reaching No 81 but, being translucent, its impact would be limited. I conclude that the pergola would not result in a significant loss of light for No 81 nor would it create an undue sense of enclosure. I am therefore inclined to the view that the nominal conflict with DMD11 is not decisive, at least as it affects natural light or a sense of enclosure.
8. Even though I consider that the pergola would not result in a significant loss of light to No 81 it would still have an effect on its outlook. In this regard the pergola would not be seen in isolation but as part of a pair of structures which would include the summerhouse. In this context it is relevant that my colleague in dismissing an earlier appeal (APP/Q5300/D/15/3139746) relating to a deeper pergola which was connected to the summerhouse said: *"as the roof of the pergola falls away and extends into the rear garden its roof and deep timber supports will clearly be increasingly prominent in and have an enclosing impact on the outlook from the adjacent rear windows and sitting out area at No 81. The pergolas attachment to the outbuilding exacerbates the situation. This is due to the combined depth and more importantly the awkward and cluttered relationship between the simple roof of the pergola and the more articulated pyramid roof of the outbuilding"*. I have been provided

with a copy of the plans before my colleague in that appeal and I have no reason to disagree with her judgement.

9. The issue before me is whether the reduced depth of the pergola as now proposed and the consequent separation between it and the outbuilding would mitigate the effect on No 81's outlook sufficiently to prevent it being unacceptable. In what is a finely balanced judgement I find that the reduced impact would now fall within the envelope of acceptability. I recognise that the pergola's deep timber supports and polycarbonate roof would have an impact on the view from No 81 but the impact would be far less than that of a solid wall with a similar 2.6m depth. Importantly, I consider that the physical separation of the pergola from the outbuilding would make the development as a whole appear less cluttered than it would have done in the scheme before my colleague. I conclude that the proposal does not conflict with the objectives of policy CP20 in the Council's Core Strategy or with those of policies DMD11 and DMD37 in the Development Management Document.
10. I am aware that in the previous appeal decision my colleague considered that the pergola as erected and as proposed for retention detracted materially from the character and appearance of the rear garden environment at No 81 and undermined the spatial characteristics of the rear garden environment as a whole. In relation to the present appeal proposal the officer's report on the application says that, because the pergola would not be attached to the summerhouse and would not be visible from the street, its impact on character and appearance would be acceptable. I agree with this assessment.

Conditions

11. I have imposed a condition specifying the approved plans. This is necessary for the avoidance of doubt. I have not imposed a time limit on the commencement of development since part of the proposal has already been carried out.

George Arrowsmith

INSPECTOR