

Appeal Decision

Site visit made on 17 January 2017

by H Lock BA(Hons) DipTP MRTPI

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

Decision date: 19 January 2017

Appeal Ref: APP/C5690/D/16/3163888

2 Netherby Road, Lewisham, LONDON, SE23 3AN

- 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 Birju Prajapati against the decision of the Council of the London Borough of Lewisham.
 - The application Ref. DC/16/095834 was refused by notice dated 2 September 2016.
 - The development proposed is construction of a two storey side extension and a new dormer to the rear elevation within the existing roof and rooflights to the front and hip roofs.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of occupants of neighbouring properties, with particular reference to outlook.

Reasons

4. The appeal property is located at the end of a short terrace of houses close to an entrance to Netherby Road. Due to the topography, the roof eaves and ridge height of the appeal property are set below those of the attached properties, and this pattern of staggered building heights follows the slope of the road. The side boundary of the appeal site forms the rear boundary of gardens to properties fronting Forest Hill Road. These dwellings and their gardens are set at lower ground level than the appeal site, with the effect that the existing dwelling is already a prominent feature beyond the gardens of the three closest dwellings, Nos. 164, 166 and 168 Forest Hill Road. The appeal site tapers, and the distance of the dwelling from the side boundary varies as a result. Due to its levels, width, accessibility and aspect this side gap is an under-utilised part of the site.
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5. Although the eaves and ridge height of the proposed side extension would match those of the existing building, the proposal would bring two-storey development closer to the shared boundary. Whilst I note the distances between buildings marked on the existing and proposed site plans, the difference in relative ground levels between the appeal site and the neighbouring properties is an additional factor in terms of assessing impact. Although the Council's 'Residential standards' Supplementary Planning Document 2012 advises that the minimum distance between habitable rooms on the main rear elevation and the rear boundary, or flank wall of adjoining development, should normally be 9 metres or more, it confirms that this guideline is to be interpreted flexibly depending on the context of the development. In this case, the proximity of the proposed side extension to the boundary and its significant height above the existing fence line would result in a more dominant building than exists at present.
6. The proposed extension would alter the outlook for occupants of Nos. 164 and 168 Forest Hill Road, but due to their relative positions this would not be to a degree that would materially harm their living conditions. However, the outlook from the centrally-positioned No. 166 Forest Hill Road and its rear garden area would be dominated by the proposed extension, and its height and depth along the boundary would result in an oppressive sense of enclosure. This overbearing impact would diminish the living conditions of occupants of that property to an unacceptable degree.
7. I am mindful that a Certificate of Lawful Development¹ (CLD) has been issued which includes a single storey side extension and hip-to-gable roof extension at the appeal property. However, I do not share the appellant's assessment that the exercise of Permitted Development rights would have a similar impact on neighbours as the appeal scheme. The appellant in his statement acknowledges that the CLD side extension would create bulk along the boundary wall that would result in a sense of enclosure in close proximity to the boundary. However, although a single storey side extension would have such an effect, I consider that the increased height created by the first-floor element would exacerbate this harm.
8. The hip-to-gable roof extension included in the CLD scheme would add bulk but this would be offset by its position further away from the boundary than proposed in this case. As a fallback position, I am not convinced that the CLD development would be more harmful than the scheme now proposed. I accept the appellant's view that the CLD scheme would offer a poorer contextual approach to the development of the site, but any benefit to the visual impact on the terrace and street scene would not outweigh the material harm to the living conditions for neighbouring residents that I have identified. The proposal would accord with some of the design aims set out in Development Management Policies document DM Policy 31, but would fail to ensure that no significant loss of amenity would result to adjoining houses and their back gardens.
9. The proposal includes a feature bay with a window at first-floor. As a secondary window, a planning condition could have been attached to a planning

¹ Ref. DC/16/098669, issued on 14 November 2016, in respect of 'the construction of a hip-to-gable roof extension incorporating a rear dormer with Juliette balcony in the rear roof slope and three rooflights in the front roofslope and a single storey side extension'.

permission to require this to be obscure glazed, thereby resolving any potential for overlooking of neighbouring properties. However, this does not resolve the harm to outlook which has been identified.

10. I therefore conclude that the proposed side extension would adversely affect the living conditions of occupants of 166 Forest Hill Road, in conflict with DM Policy 31 and the overarching design aims of Policy 15 of the Core Strategy², which includes a requirement for household extensions to be designed to protect neighbour amenity.

Conclusion

11. The National Planning Policy Framework establishes a presumption in favour of sustainable development, and part of its environmental strand is to contribute to protecting and enhancing the built environment. A core planning principle of the Framework includes always seeking to secure a good standard of amenity for all existing and future occupants of land and buildings, but for the reasons given above the proposal would not comply with this principle and would not be sustainable development supported through the Framework. As a consequence, and for the reasons given above, I conclude that the appeal should be dismissed.

H Lock

INSPECTOR

² Lewisham Local Development Framework Core Strategy Development Plan Document 2011