



Appeal Decision

Site visit made on 15 February 2017

by A J Mageean BA (Hons) BPI PhD MRTPI

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

Decision date: 7th March 2017

Appeal Ref: APP/L5240/D/16/3163516 89 Westleigh Avenue, Coulsdon CR5 3AE

- 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 Mrs Claire McCarthy against the decision of the Council of the London Borough of Croydon.
 - The application Ref 16/02877/P, dated 31 May 2016, was refused by notice dated 15 September 2016.
 - The development proposed is a wooden gazebo with polycarbonate roof to the rear of the house.
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Decision

1. The appeal is allowed and planning permission is granted for a wooden gazebo with polycarbonate roof to the rear of the house at 89 Westleigh Avenue, Coulsdon CR5 3AE in accordance with the terms of the application, Ref 16/02877/P, dated 31 May 2016, and the plans submitted with it.

Preliminary Matter

2. I noted on my site visit that the gazebo which is the subject of this application is already in place.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupiers of No 87 Westleigh Avenue, with particular reference to outlook.

Reasons

4. The appeal site is a mid-terrace property located on the south side of Westleigh Avenue. In common with other properties on this row it has a long narrow plot, and the rear garden has a rising gradient from the property southwards. Most of these properties, including the appeal site, appear to have steps from a rear patio area adjacent to the house leading up to the garden area beyond.
 5. The gazebo spans the full width of the rear of the property to a depth of around 5.9m, covering the existing patio area. This is reduced on the western side of the property where the steps rise to the garden area. It has a timber frame covered in mono-pitch polycarbonate sheeting. Each side is open above what appear to be the pre-existing boundary treatments: on the shared boundary with No 87 there is some trellis above an existing timber fence of reasonable height; on the shared boundary with No 91 is the opaque glass wall of No 91's conservatory along with some timber fencing, and to the rear is the gardens retaining wall, topped with a picket fence.
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6. As No 87 has not been extended from the rear building line and has patio windows adjacent to the shared boundary with No 89, the Council has raised concerns about the effect of the proposal on the living conditions of the occupiers of this dwelling in terms of visual intrusion. However, as this is a relatively light structure with a good sized gap above the existing fence, a degree of openness is retained, such that visual intrusion is not as significant as if this was a solid structure. Also the polycarbonate sheeting allows a degree of translucence and light penetration which further reduces the sense of solidity and therefore the intrusiveness of this structure. Furthermore, the fact that the gazebo reduces in height before the rear garden areas rise to the south, provides a further visual distraction from the presence of this structure.
7. The Council's Residential Extensions and Alterations Supplementary Planning Document refers to extensions to terraced properties normally having a maximum projection of 3m. However, this relates to all extension types, including those with solid walls. I have found in this case that the lightness of this structure means that its effect on the outlook for the occupiers of No 87 is not unduly harmful.
8. I therefore conclude that the proposal would not have a detrimental effect on the living conditions of the occupiers of No 87 Westleigh Avenue, with particular reference to outlook. It would therefore comply with the provisions of the Croydon Replacement Unitary Development Plan, which at saved Policy UD8 requires that new development should not cause undue visual intrusion. It would also comply with the London Plan 2016 Policy 7.6 relating to the protection of the amenity of the occupiers of neighbouring properties.

Other Matters

9. The appellant operates an Ofsted registered child-minding business from the appeal property. Neighbours on both sides have objected to this proposal on the grounds of the increased noise generated as a result of children playing outside under the protection of the gazebo. I have some sympathy with the disturbance to the neighbouring shift worker who sleeps during the daytime. However, as noted by the Council, the scale of this business is not in itself considered to give rise to an unreasonable degree of disturbance.
10. Neighbours also express concerns about the impact of this development on local property values. However, again as noted by the Council, this is not in itself a matter to which weight is attached in planning decision making.
11. Finally, representations have been made to the effect that the human rights of the adjoining occupiers would be violated if the appeal were allowed. I do not consider this argument to be well-founded, because I have found that the proposed development would not cause unacceptable harm to the living conditions of the occupiers of neighbouring properties. The degree of interference caused is therefore insufficient to give rise to a violation of the Human Rights Act 1998.

Conclusion

12. For the reasons set out above, as material considerations do not indicate that the appeal should be determined other than in accordance with the development plan, the appeal should succeed. I have had regard to the conditions suggested by the Council, but as the gazebo is already in place these are not necessary.

AJ Mageean

INSPECTOR