

Appeal Decision

Site visit made on 29 March 2017

by J D Westbrook BSc(Hons) MSc MRTPI

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

Decision date: 9 May 2017

Appeal Ref: APP/N5090/D/17/3169428

44 Pattison Road, London, NW2 2HJ

- 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 Fang Li against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/4853/RCU, dated 21 July 2016, was refused by notice dated 25 November 2016.
 - The development proposed is described as the retention of a timber orangery to the rear of the property.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a timber orangery to the rear of the property at 44 Pattison Road, London, NW2 2HJ in accordance with the terms of the application, Ref 16/4853/RCU, dated 21 July 2016, and the plans submitted with it subject to the following condition:

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 9001 Rev A

Main Issue

2. The main issue in this case is the effect of the orangery on the living conditions of the occupiers of No 46 Pattison Road by way of light and outlook.

Reasons

3. No 44 is a semi-detached house situated on the south side of Pattison Road. The road is characterised by a mix of terraced, semi-detached and detached houses of varying design. The road slopes up from west to east and the rear gardens of the houses on the southern side, in the vicinity of the appeal property, slope down to the south.
 4. The orangery at No 44 is already constructed. It is around 6 metres deep by 3.5 metres wide, and it is about 3 metres high to the eaves as measured from the side path and patio level, or a little under 4 metres high when measured from the level of the rear garden below the patio. There is a low, glazed lantern rooflight above the orangery, such that the maximum overall height of the structure is around 4.2 metres. The structure has largely glazed southern and western elevations, with a rendered elevation facing east.
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5. The Council, in its decision notice, contends that the extension, by reason of its siting and height (including lantern rooflight) causes a loss of light to and loss of outlook from the side facing windows in the adjoining property at No. 46 Pattison Road, which is detrimental to the residential amenities of the occupiers of that property.
6. There are two relevant ground-floor windows in the western elevation of No 46, adjacent to No 44. One window apparently serves a kitchen and seems to be relatively modern. It is a corner window with an extensive west-facing glazed element forming part of the boundary wall, and a smaller return window facing south down the side of No 46. The other is an arched window which apparently serves a living room, though I have no clear details of the internal layout or other window arrangements of the ground floor rooms of No 46.
7. Owing to the topography of the area, No 46 would appear to be between some 0.7 metres and 1 metre above the level of No 44. There is a path running down the side of No 44 around 1 metre wide, such that the side wall of the orangery is approximately 1 metre from the kitchen window at No 46 and 2 metres from the arched window. The difference in levels means that the side elevation of the orangery extends upwards to a point at the eaves only part way up the glazed elements of the side windows in No 46.
8. There was previously an extension to the rear of No 44, which has been replaced by the current orangery. This earlier extension was a flat roofed structure around 4 metres deep by a little under 3 metres wide, which had an effective height of around 3.5 metres from patio level at a point 1 metre distant from the kitchen window at No 46. The current orangery is around 0.5 metres lower at this point and, although the low lantern roof projects a little higher than this, the maximum height of the roof is only attained nearly 3 metres away from that window. On this basis, and in regard to this particular window, I find that the orangery is not harmful to the living conditions of the occupiers of No 46 by way of light or outlook, and may even be considered an improvement on the previous situation, which could potentially have continued unchanged.
9. The orangery extends around 2 metres further than the earlier extension. This takes it beyond the arched window in No 46. This is a relatively small window and I have no details as to whether it is a primary or secondary source of light for the room. In any event, once again, the eaves of the orangery reach only part way up this window, with the lantern roof sloping gently away. The eaves are only a little higher than the boundary treatment between the two properties at this point. Moreover, the orangery affects only the view directly across from the window, and is some 2 metres distant from it. By virtue of distance and levels, it would not appear to have any significant effect on the view round to the south-west or on the direct amount of light, especially sunlight, received by the arched window. I do not find that the very slight impact of the orangery on light and outlook from this window is sufficient to dismiss the appeal.

Other matters

10. There have been objections from the occupiers of No 46, and also from certain of the occupiers of other properties along both sides of the road, regarding the impact of the orangery on light and outlook at No 46, which I have dealt with above, and also on the effect on the character and appearance of the area. The

Council has indicated that it has no significant concerns with regard to the character and appearance of the orangery, noting the existence of a number of relatively large rear extensions of varying designs and materials at houses in the vicinity of the appeal property. I concur with that view, and note that there is a large rendered rear extension at No 46, which has a balcony with parapets above. No 42 has a large single-storey, flat-roofed and rendered extension to the rear, while it would appear that No 40 has a large rear extension with a pyramid-style roof. On this basis, the orangery at No 44 does not appear out of scale or character with its immediate surroundings.

11. The occupiers of No 46 also contend that the orangery as constructed is different from the drawings accompanying an earlier application for prior approval. It would appear from the evidence before me, that the only difference is that the lantern roof as constructed is wider than the version proposed on earlier plans, but that it is little or no higher overall and that it otherwise has no significant additional impact on views from the windows in No 46. In any case, I have dealt with the scheme as built and according to the plans submitted with this proposal.

Conclusion

12. The orangery at No 44 is situated at a level somewhere around 1 metre lower than the dwelling at No 46. It is around 0.5 metres lower at the eaves than the previous rear extension at the property. It must therefore, on this basis, have less direct impact on light and outlook when viewed from the kitchen window at No 46, 1 metre away. The orangery is some 2 metres longer than the earlier extension but, by virtue of its limited height at the eaves, the drop in levels between Nos 44 and 46, and the 2 metre distance from the arched window at No 46, it results in no significant harm to the living conditions of the occupiers of No 46 by way of light and outlook relating to that window.
13. In the light of the above, the orangery at No 44 does not conflict with Policy DM01 of the Council's Development Management Policies Document, which requires that development should allow for adequate light and outlook for adjoining occupiers, nor with its Supplementary Planning Document on Residential Design, which requires development to safeguard residential amenity, including light and outlook.

Conditions

14. I have attached a condition relating to plans because it is necessary that the development is constructed in accordance with the approved plan, for the avoidance of doubt and in the interests of proper planning.

J D Westbrook

INSPECTOR