
Appeal Decision

Site visit made on 16 May 2017

by Oliver Blower MA (T&CP)

a person appointed by the Secretary of State for Communities and Local Government

Decision date: 14 June 2017

Appeal Ref: APP/M5450/D/17/3171555

25 Earls Crescent, Harrow HA1 1XL

- 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 Min Fang Wang against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/4402/16, dated 14 September 2016, was refused by notice dated 30 January 2017.
 - The development is described as *"Application for consent for existing single storey, glazed uPVC and polycarbonate out-building forming an enclose[sic] for the housing of fish ponds to protect the fish from freezing weather and for the enjoyment and maintenance of the pond. The structure is un-heated and is separated from the existing house by insulated external doors"*.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on 1) the character and appearance of the host building and immediate area and, 2) the living conditions of the occupiers of No 23 Earls Crescent, with particular regard to overbearing impact and overshadowing.

Procedural matters

3. The appeal is for retrospective planning permission for an existing development.
4. The 'Site Description' of the Council's Delegated Application Report states that the property features, amongst other things, an *"8m deep single storey rear extension part of which is a conservatory"*. It goes on to state in the 'Proposal Details' that *"the application is for an 8m deep single storey rear extension from the original rear wall of the dwelling"*.
5. For the sake of clarity, the description of the development in the application form describes only the existing single-storey glazed uPVC and polycarbonate 'outbuilding'. From my site visit it was clear that this 'outbuilding' is what the delegated application report describes as a 'conservatory'. The Site Block Plan (Drawing Ref 002 Rev 02) has an area hatched in red and labelled 'application footprint' which outlines only this conservatory.

6. I will therefore refer to the appeal development as a conservatory to distinguish it from the other single-storey rear extension - which did not form part of the application - and for reasons that will be made clear below.
7. The appellant would like the appeal development to be classified as an 'outbuilding' by reference to criteria in Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 ('GPDO').
8. The Government's Permitted Development Rights for Householders Technical Guidance (April 2017), however, states that buildings which are attached to the house are not permitted under Class E; they would instead be subject to the rules in Class A concerning the enlargement, improvement or other alteration of a dwellinghouse. Therefore, on the basis of the evidence and my site visit, in my assessment the appeal development is more appropriately described as a 'conservatory'. I note that the appellant argues that the structure is not heated and is separated from the other extension by an external insulated door, but this in itself is not an unusual arrangement for a conservatory.
9. There is no dispute that the appeal development requires planning permission and I have determined the appeal on this basis.

Reasons

Character and appearance

10. The immediate area is characterised by a mixture of modestly sized two-storey detached and semidetached brick and rendered houses. The houses predominantly have large verdant rear gardens which give a pleasing sense of openness to the locality.
11. The appeal site is a detached two-storey house located on a prominent corner plot with a single-storey flat roof side extension which extends to the boundary with the adjacent footway on its south west side.
12. The house has a single-storey flat-roofed rear extension, approximately 4m deep, and attached to it a glazed uPVC and polycarbonate conservatory approximately the same depth. Viewed together the conservatory projects in the region of 8m from the rear elevation of the original house.
13. The conservatory is approximately 2.4m high at the eaves, rising to around 2.7m at the ridge, and spans beyond the original width of the house to include the width of the side extension.
14. The rear garden of the appeal site has a long greenhouse to its south west boundary which abuts the conservatory at one end, and a large shed in its south east corner.
15. The conservatory is significantly wider than the original house and combined with its depth – particularly when viewed in conjunction with the single-storey extension – appears overly large and out of scale with the modest proportions of the original house, dominating its rear elevation at ground level.
16. Due to its excessive width, depth and bulk, the conservatory substantially encroaches into the rear garden space, significantly eroding the characteristic openness of the immediate area. This loss of openness is exacerbated by the size and bulk of the other structures to the rear of the house.

17. In light of the above points I conclude that the conservatory appears as an incongruous feature which causes unacceptable harm to the character and appearance of the host building and immediate area. It is therefore contrary to policy DM 1 of the Harrow Council Development Management Policies which seeks to ensure, amongst other things, that developments which fail to achieve a high standard of design and layout, or which are detrimental to local character and appearance, with particular regard to the massing, bulk, scale and height of proposed buildings in relation to the location and the surroundings, will be resisted.
18. I note the appellant states that the combined area of the extensions and structures equals 41.1% of the land surrounding the original house, below the 50% limit in Class A of the GPDO. Whether or not this is the case, however, it is accepted that the conservatory is not permitted development (PD). I have assessed the conservatory on its own merits and, for the reasons given above, it causes harm.
19. The appellant argues that extensions up to 8m in depth are permissible under Class A of the GPDO, thus the depth of the conservatory cannot be considered excessive. However, an extension is not permitted development if it extends beyond a side wall of the original house and is more than half the width of the original house. Thus an extension under PD would be significantly smaller in scale than the appeal development, such that its effects would not be directly comparable.
20. Moreover, where an extension of 8m in depth is sought, the prior approval of the local planning authority is required as to the effect of the proposed extension on the amenity of any adjoining premises where an objection has been received. Accordingly, although an extension up to 8m in depth can be PD, it does not follow that an extension of that depth is without harm.

Living Conditions

21. The conservatory is higher than the boundary fence between No 25 and No 23. Due to its height, excessive depth (in conjunction with the single-storey extension) and proximity to No 23, its large blank flank wall has an overbearing effect when viewed from the closest habitable room window of No 23 and rear patio area. Since the conservatory is to the south east of No 23, it also reduces sunlight and causes overshadowing of the rear patio, diminishing the occupiers' enjoyment of this outdoor space.
22. As a result I conclude that the development causes unacceptable harm to the living conditions of the occupiers on No 23 with particular regard to overbearing impact and overshadowing. It is therefore contrary to policy DM 1 of the Harrow Council Development Management Policies which seeks to ensure, amongst other things, that developments which fail to achieve a high standard of design and layout, with particular regard to any impact on neighbouring occupiers, will be resisted.

Other matters

23. The appellant – through her professional planning agent - has provided illustrations of alternative buildings that she contends could be built as PD, although I do not have sufficient evidence to confirm whether this is the case or not. Nonetheless the illustrations show substantial buildings that in my view

would diminish the appellant's enjoyment of her rear garden. I therefore afford these fallback positions very limited weight as there is no firm evidence before me to suggest that they are likely to be built.

24. I note that the conservatory was built to enclose a pond to protect the fish from cold weather. Although I am sympathetic to the aims of the appellant – and to the wellbeing of the fish – protection from the weather could be achieved by other less intrusive means.

Conclusion

25. For the reasons given above, and having had regard to all other matters raised, I dismiss the appeal.

Oliver Blower

Appointed Person