

Appeal Decision

Site visit made on 16 May 2017

by Jason Whitfield BA (Hons) DipTP MRTPI

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

Decision date: 22nd June 2017

Appeal Ref: APP/A5270/W/16/3155780

38 Mattock Lane, West Ealing, Ealing W13 9NS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Philippe Lai against the Council of the London Borough of Ealing.
 - The application Ref PP/2015/4962, is dated 21 September 2015.
 - The development proposed is described as "demolition of side rear extension and enlargement of house house involving a new frontage and raised the roof."
-

Decision

1. The appeal is dismissed and planning permission for the construction of an additional first floor level and loft with crown roof; two storey front extension; external alterations to rear, front and side elevations; demolition of two storey side extension is refused.

Application for costs

2. An application for costs was made by Mr Philippe Lai against the Council of the London Borough of Ealing. This application is the subject of a separate Decision.

Preliminary Matters

3. The Council resolved that had it been in a position to determine the application, it would have refused planning permission for reasons relating to the effect of the proposal on the living conditions of neighbouring residents.
 4. The appellant has provided two additional plans with the appeal. The plans do not change the nature of the proposal, rather they seek to compare the proposal against an extant permission for the appeal site and to show the appeal site in relation to surrounding properties. I consider no party would be prejudiced by my consideration of those plans and have therefore taken them into account.
 5. The description of development in the heading above is taken from the application form. I have, however, used the description taken from the Council's Officer Report and Section E of the appeal form in the formal decision above, as I find it a more accurate description of the proposal.
-

Main Issue

6. The main issue is the effect of the proposal on the living conditions of the occupiers of 37 Mattock Lane and 3 Culmington Road with particular regard to light.

Reasons

7. The appeal relates to a two-storey dwelling which has a large front garden and a small courtyard to the side. The rear elevation of the property forms its rear boundary and abuts private amenity space in the ownership of 37 Mattock Lane. The amenity space of No 37 is around 2m in depth. Beyond that is the rear garden of 3 Culmington Road. The rear elevation of No 3 contains ground floor windows and doors around 4.2m from the appeal property.
8. It is proposed to increase the height of the building through a roof extension to incorporate additional upper floor accommodation, with a two-storey extension to the front along with alterations. I note that it is proposed to demolish the existing two-storey side extension. However, the proposed roof extension would have an eaves height of around 5.3m with an overall height of around 7.2m. This would be a significant increase above the existing eaves height of around 4.3m and the existing overall height of around 5.7m. Moreover, the roof extension would adjoin the rear courtyard of No 37, would be around 2m from the rear garden of No 3 and around 4.2m from the dining room doors and windows of No 3. In my view, this would be a reasonably close proximity for a building of such a size.
9. Furthermore, the works would be sited to the south of the amenity space of No 37, the rear garden of No 3 and the dining room windows and patio doors of No 3. I note that the rear gardens and windows of those properties are currently overshadowed to varying extents by existing buildings and structures. I also note that No 3 has a large garden with a width of around 13m. However, the increase in height of the property, its proximity to those areas and its southerly orientation would likely further diminish the levels of daylight and direct sunlight available to the occupiers of those properties both within their garden areas and indeed within the closest habitable room of No 3.
10. The appellant has provided excerpts from a website that shows sun movement and sunlight phases. It is indicated that those excerpts show that, in summer, the proposed building would have no effect on sunlight reaching No 3 and that No 3 is currently overshadowed in winter. However, the excerpts provided are lacking in detail and it is not entirely clear from them how the conclusions have been calculated. In any event, the excerpts show calculations only for 21 June and 21 December. There are no details regarding the effect of the proposal on direct sunlight or daylight throughout other periods of the year. As such, I find the evidence provided insufficiently compelling to outweigh the harm which I have identified above.
11. I conclude, therefore, that the proposal would have a harmful effect on the living conditions of the occupiers of 37 Mattock Lane and 3 Culmington Road with regard to light. As a consequence, it would conflict with Policy 7.4 and 7.6 of the London Plan¹ which seek to create positive relationships and that

¹ The London Plan: The Spatial Development Strategy for Greater London Consolidated with Alterations Since 2011, 2016

development should not cause unacceptable harm to the amenity of residential buildings in relation to overshadowing.

12. The Council's decision notice makes reference to Policies 7A and 7B of the Ealing Development Management Development Plan Document 2013. However, those policies relate to development which would cause emissions and are not, therefore, relevant in this instance.

Other Matters

13. The appellant has drawn my attention to the existence of an extant planning permission² granted in July 2015 for the construction of a two-storey dwelling house following the demolition of the existing property. Whilst the approved scheme would have a similar height to that of this appeal proposal, the evidence provided suggests the approved dwelling would be stepped away from the rear boundary with No 37. Thus, the approved scheme would be less harmful than the appeal proposal. I therefore afford the fallback position limited weight.
14. The appellant has made reference to Planning Policy Statement 7 2001. However, the document was superseded by the National Planning Policy Framework and no longer forms Government policy. I therefore attach it very little weight.
15. The appeal site lies within the Ealing Green Conservation Area. The proposed works would be of an appropriate proportion and scale and would not visually dominate the adjacent buildings which are locally listed. As a consequence I am satisfied that the proposal would preserve the character and appearance of the Ealing Green Conservation Area.

Conclusion

16. For the reasons given above I conclude that the appeal should be dismissed and planning permission refused.

Jason Whitfield

INSPECTOR

² Council Reference: 2015/1603