



Appeal Decision

Site visit made on 9 August 2017

by M Seaton DipTP MRTPI

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

Decision date: 24 August 2017

Appeal Ref: APP/W5780/W/17/3172199

32 Monkswood Gardens, Ilford, IG5 0DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mrs Syeda Shuhena Hussain against the decision of the London Borough of Redbridge.
 - The application Ref 4713/16, dated 4 October 2016, was approved on 5 January 2017 and planning permission was granted subject to conditions.
 - The development permitted is a single and part double storey rear extension.
 - The condition in dispute is No 4 which states that: *Notwithstanding the approved plans, within three months of the date of this decision the bottom part of the ground floor window of the south east flank wall of the development hereby approved shall be fitted with obscured glazing and be fixed shut. The window shall be retained as such thereafter.*
 - The reason given for the condition is: *To safeguard the privacy of neighbouring occupiers, in accordance with policy BD1 and BD5 of the Borough Wide Primary Policies DPD.*
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Procedural Matters

1. I note that the application was made for a double-storey rear extension, but that the Council changed the Description of Development to a single and part double storey rear extension. There does not appear to have been any formal agreement to do so.
2. I have also had regard to the appellant's submissions that the Council has acted unreasonably by virtue of the imposition of a condition on an element of the works previously granted prior approval in June 2016 for the single-storey rear extension.
3. I am mindful that at the time of the making of the application the subject of this appeal, the ground floor extension had not been completed but was under construction, as indicated on the submitted plans. However, I also note that the Council's December 2016 Committee Report acknowledges the ground floor extension as having been completed (in accordance with the prior approval plans) except for roof tiling in the location of the proposed first floor (double-storey) extension. I was also able to observe this to be the case at the site visit and that it was fully occupied and in use as habitable accommodation.
4. As a consequence, and despite the previously approved ground floor element of the extensions having been completed by the time of the determination of the planning application, the fact that the planning application as applied for included the ground floor element as an integral part of the overall scheme, brought it within the remit of the Council to consider whether or not there were

any conditions or controls which would be required over the entire development. Whilst I have carefully considered the appellant's submissions to this effect, the window facing towards No. 30 Monkswood Gardens was a clear point of difference from the prior approval scheme, and I am satisfied fell reasonably within planning control, irrespective of any assessment as to whether or not it would have been acceptable as part of the prior approval scheme.

5. I therefore consider that the Council has acted reasonably in this respect in seeking to attach the disputed condition to the planning permission.

Decision

6. The appeal is allowed and the planning permission Ref. 4713/16 for a single and part double storey rear extension at 32 Monkswood Gardens, Ilford, IG5 0DG granted on 5 January 2017 by the London Borough of Redbridge, is varied by deleting condition No. 4.

Main Issue

7. As a consequence of the matters set out within the Procedural Matters section above, the main issue is whether the condition to require the ground floor side window within the single-storey extension to be obscured glazed and fixed shut, is reasonable or necessary in the interests of safeguarding the living conditions of the neighbouring occupiers of No. 30 Monkswood Gardens, having regard to privacy

Reasons

8. The appeal property comprises a two-storey end of terrace dwelling located close to the junction between Monkswood Gardens and Stradbroke Grove, and is situated within a predominantly residential area. The property has already been extended by virtue of a loft conversion and rear dormer and hip to gable roof alteration, as well as the aforementioned rear single storey extension.
9. The disputed condition relates to a side window which has been inserted within the single storey rear extension, and which faces directly towards the boundary with No. 30 Monkswood Gardens from the position of the kitchen sink within the habitable accommodation. The boundary at this point is defined by a substantial timber fence set approximately 2 metres away from the window, with the bottom of the window indicated by the Council to be 1.5 metres above ground level.
10. The Council has argued that the unrestricted and unobscured use of the window would result in an unacceptable impact on the living conditions of the neighbouring occupiers of No. 30 Monkswood Gardens, having regard to privacy. However, from my observations on the site, I disagree with this conclusion. As a consequence of the position of the window set within the side elevation of the extension and away from the boundary, I am satisfied that there would not be an opportunity for any loss of privacy to rear windows within the neighbouring dwelling due to the position of the existing rear extensions. Furthermore, I am also mindful that the scale and height of the existing boundary fencing, and the position of the window within the wall and that of the existing kitchen units and sink, prevents any opportunity for unacceptable overlooking of the neighbouring garden.

11. I have had regard to the assertion that the fence panel had been inserted by the neighbour on a temporary basis to combat the impact of the window. However, there is no compelling evidence adduced to support the neighbour's contention, and I noted further fencing of a similar scale, including adjacent to the flank wall of the single-storey extension, along the same boundary in any event.
12. Therefore for the reasons given above, and being mindful of the position and nature of the existing boundary treatment, I do not consider that the condition requiring the window to be obscurely glazed and fixed shut would be reasonable or necessary for the development to accord with saved Policies BD1 and BD5 of the London Borough of Redbridge Borough Wide Primary Policies Development Plan Document 2008. These policies seek to ensure that development complements the character of the building, and does not prejudice the amenity of neighbouring occupiers by unreasonably restricting sunlight, daylight or privacy to their properties.

Other Matters

13. I have had regard to the various other concerns related to overdevelopment, loss of light, design, and the impact on living conditions of neighbouring occupiers, which have been expressed by neighbouring occupiers of properties in the vicinity, including those on Stadbrooke Grove. However, I have also noted the conclusions which the Council has reached on these matters, and on the basis of the submitted evidence and my own observations of the site, I see no reason to disagree with the Council in these respects.

Conclusion

14. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

M Seaton

INSPECTOR