
Appeal Decision

Site visit made on 18 October 2017

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 16 November 2017

Appeal Ref: APP/N5660/D/17/3180444
30 Dulwich Road, London SE24 0PA

- 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 Mr Barrington Bent against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 17/01422/FUL, dated 22 March 2017, was refused by notice dated 8 June 2017.
 - The development proposed is a closet rear extension at upper ground floor level – to be assessed in conjunction with the previously approved lower ground floor extension, see 16/06635/FUL.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Planning permission for a lower ground floor extension has already been given under ref 16/06635/FUL on 19 January 2017. The appeal proposal is to erect a closet rear extension at upper ground floor level in conjunction with that previously approved extension. Given the extant permission, I have considered the effect of the additional erection of the closet rear extension element at upper ground floor level in my determination.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the host property, adjacent properties and the Brockwell Park Conservation Area (BPCA).

Reasons

4. The appeal site comprises a three storey (plus lower ground floor) semi-detached late Victorian dwelling with a spacious rear garden. It is one of a group of buildings of the same basic design, with shallow hip roofs and yellow London brick facades, which form an impressive line along Dulwich Road. They back on to Brockwell Park and the site lies within the BPCA.
5. It is proposed to erect a rear closet extension at upper ground floor level which would be approximately 2.55 metres wide, 3.1 metres high and 2.5 metres deep. It would have a large rear window, a rooflight and a smaller high level side window and would sit on top of the approved lower ground floor extension.

6. Although the relevant statutory framework is not intended to prevent all change in conservation areas, it does place a duty on decision makers to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.¹
7. The appellant refers to various minor changes to the rear elevations of the houses along Dulwich Road, associated in many cases with their division into flats. Those changes include additional plumbing and pipework, mismatching windows and the removal on some of the small balcony and external staircase at upper ground floor level, which originally provided access to the garden below. Whilst there have been some alterations, the main vertical, flat body and design of the rear elevations, including that of the appeal property, remain substantively intact and largely as originally built. There are no obvious extensions or significant projections certainly at upper ground floor level or above. The rear elevations exhibit an attractive uniformity of structure and design which makes a positive contribution to the character and appearance of BPCA. Given that context, although modest in size, a box-like closet extension at upper ground floor level protruding from the original flat vertical rear elevation would introduce an alien feature, uncharacteristic of the appeal property and neighbouring properties along the road.
8. It is acknowledged that there is an extant permission for a lower ground floor rear extension, already referred to. The Council advises that permission was granted as the extension was single storey and would remain subordinate to the existing building. Whilst that larger extension would also affect the rear elevation, it would extend into a patio area below the level of the elevated garden, which would help to diminish its effect. The proposed closet extension would be set-back from the front-elevation of the lower ground floor extension and inset slightly from the side of the main building. However, the addition of this part two-storey element at the more prominent upper ground floor level would have a significantly different and adverse effect on both the host property and adjacent properties and, thereby, on the character and appearance of the BPCA.
9. Although the proposal would be to the rear, the property backs onto a public park, Brockwell Park. There is a line of trees and vegetation in the park, adjacent to the rear boundaries of the properties on Dulwich Road, which does limit views of them. Nevertheless, during my site visit in mid-October, when many of the trees were still in leaf, I was able to see the appeal property, including its upper ground floor level and the storeys above, from a grassed pathway adjacent to an exercise frame in the park, about 25 metres from the site boundary. It was also still visible from near a bench on the main tarmac path which runs through the park, about 50 metres from the site boundary.
10. Whilst views may be more limited during the summer months, it would be visible from the public domain, particularly during the autumn and winter when screening from vegetation would be thinner. I consider that the design of the proposed extension would also be likely to draw the eye. In any event, the extent of public views is not necessarily a deciding factor in relation to the protection of designated heritage assets, such as conservation areas. Moreover, the proposed development would also be visible from the gardens of adjacent dwellings.

¹ s 72(1) Planning (Listed Buildings and Conservation Areas) Act 1990

11. Although the contemporary design reflects the aesthetic of the approved lower ground floor extension, the large rear full pane window of the closet extension would appear discordant juxtaposed with the adjacent sash window. That large sash window forms an attractive original feature of the appeal property and neighbouring properties along the road.
12. The Building Alterations & Extensions Supplementary Planning Document (SPD)² is referred to by the appellant. It says that the combined mass and height of closet returns generally makes them subordinate to their host building. However, whilst that may be generally the case, that is primarily in reference to buildings with existing historic closet returns, whereas they are not characteristic of the appeal building or its neighbours.
13. The appellant submits that various aspects of the design of the closet return comply with Policy Q11 of the Lambeth Local Plan (LLP)³, which does contemplate the possibility of new closet returns. However, Policy Q11 also advises that that the Council will, when considering proposals for the alteration or extension of buildings, generally expect them to have a design which positively responds to the original architecture, detailing and fenestration of the host building. Whilst the proposed closet would be set-back and have glazed parts, there would also be solid brick wall elements to the sides. Its position at upper ground level, atop a full width lower ground floor extension, combined with its contemporary design would result in an obtrusive and incongruous appearance. Therefore, it would not appear subordinate to the host dwelling.
14. Paragraph 3.3 of the SPD says that many early/mid-19th century buildings originally had flat rear elevations and that '*where these survive unaltered*' on heritage assets they are generally considered worthy of preservation. Whilst I note that it refers to early/mid-19th century buildings, no precise date of construction of the appeal building or its neighbours has been evidenced, although they have been referred to as late Victorian. Although the building is not nationally or locally listed, it is within the BPCA which is a designated heritage asset. Therefore, as they are 19th century Victorian buildings and I have already found that their rear elevations make a positive contribution to the BPCA, the thrust of the SPD in preserving historic design, in support of Policy Q 11 of the LPP, is relevant.
15. It has also been suggested by the appellant that the Council's reference to the SPD is misplaced as the rear elevations of the buildings have already been altered. However, as already discussed, the alterations which have occurred are relatively minor and have not fundamentally compromised the architectural integrity of the rear elevations. The appellant also holds that as a lower ground floor extension has been approved, the rear elevation would be 'altered' rather than 'unaltered' and, therefore, questions the application of the SPD. Whilst I appreciate the ingenuity of that submission, the extant permission has yet to be built out and, in any case, the main LLP policies and the supporting SPD are still relevant in assessing an appeal proposal which involves a significant addition at upper ground floor level.
16. I note that, as with a number of the other properties along the road, the original door, small balcony and stair access to the rear garden has, at some point, been removed at the appeal property and replaced by a small window.

² September 2015

³ Adopted September 2015

Although the window and lintel is not part of the original design and the replacement brickwork is detectable, I do not consider that change has had a significant adverse effect on the rear elevation. Therefore, I give limited weight to the benefit associated with removing that work to accommodate the proposal.

17. Paragraph 132 of the National Planning Policy Framework (the Framework)⁴, states that when considering the impact of a proposed development on the significance of a designated heritage asset, such as a conservation area, great weight should be given to the asset's conservation. Whilst I have found harm to the character and appearance of the BPCA, as the proposal relates to one property and is to the rear where public views are more limited, I consider that the harm caused would be less than substantial. Paragraph 134 of the Framework advises that where the harm is less than substantial it should be weighed against the public benefits of the proposal.
18. Although the closet return is relatively modest in size, there would be some public benefit in creating a study area or additional living space for current and future occupiers and in removing a previous unsympathetic alteration, referred to above. However, I find that the public benefits would be limited and that they would not outweigh the harm to the BPCA caused by the proposal.
19. Overall therefore, the above factors lead me to conclude that the proposed development would harm the character and appearance of the host property, adjacent properties and the BPCA. It follows that it would be contrary to policies Q5, Q11 and Q22 of the LLP and the SPD insofar as they seek to ensure that development positively responds to the original architecture of host buildings, local context and character and preserves or enhances the character or appearance of conservation areas.

Conclusion

20. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Tudor

INSPECTOR

⁴ Published March 2012