



Appeal Decision

Site visit made on 16 August 2019

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th August 2019

Appeal Ref: APP/K5600/D/18/3217025 10 Farrier Walk, London SW10 9FW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr James Price against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref PP/18/04058, dated 12 July 2018, was refused by notice dated 15 October 2018.
 - The application sought planning permission for the construction of rear extension with three new rooflights and new doors onto side passage without complying with a condition attached to planning permission Ref PP/17/04718, dated 19 September 2017.
 - The condition in dispute is No 2 which states that: The development shall not be carried out except in complete accordance with the details shown on submitted plans 120_PL1-site plan, -EX00-00, EX00-01, EX01-00, EX01-01, EX04-00, EX05-00, EX-06-00, EX-06-01, EX07-00, EX07-01, EX08-00, EX08-01, GA00-00 rev A, , GA00-01 rev A, , GA01-01, GA01-00, GA04-00, GA05-00, GA06-00 (proposed), GA06-00 (removal), GA07-00, GA07-01, GA08-00, GA08-01.
 - The reason given for the condition is: The details are material to the acceptability of the proposals, and to ensure accordance with the development plan.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a rear extension with two new rooflights and new doors onto side passage at 10 Farrier Walk, London SW10 9FW in accordance with the application PP/18/04058, dated 12 July 2018 and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 120_PL3-GA06-00 dated 28 June 2018; 120_PL3-GA06-01 dated 12 July 2018; 120_PL3-GA01-00 dated 12 July 2018 and 120_PL3-GA01-01 dated 12 July 2018.
 - 2) The railings to the roof terrace shall be painted black and shall be maintained as such for the life of the development.
 - 3) The external doors hereby permitted shall be framed in painted timber and shall be maintained as such and not replaced with any alternative material.

Procedural Matters

2. The original planning permission described the proposal as the construction of rear extension with three new rooflights and new doors onto side passage. The

appeal proposal is for a minor material amendment to that permission and amongst other changes the new proposal alters the development so that only two new rooflights are proposed. As a consequence, I consider that the development should now be described as the construction of a rear extension with two new rooflights and new doors onto side passage.

3. At my site visit I saw that the extension was under construction with the majority of the external elements being complete. This included the walls and the roof with two openings for the rooflights (although the rooflights had not been fitted). In addition to the above, the balustrade had not been installed.

Main Issue

4. The main issue is the effect of the development on the living conditions of the occupiers of 11 Farrier Walk with particular regard to privacy.

Reasons

5. The appeal site is located within a gated mews style development. Properties within the street are located close together with mutual overlooking potential between their respective front windows. The exception to this is 11 and 12 Farrier Walk which are located at the head of the road, albeit that there are clear views of the property frontages from within the street. There are also clear views of the rear of the appeal site and the frontage of No 11 from within several properties on Hollywood Road given the proximity of these properties to those on Farrier Walk.
6. The appeal property itself does not have any windows facing onto No 11. Consequently, any overlooking from the appeal site to No 11 is restricted to views from the rear roof terrace.
7. The proposal would increase the size of the roof terrace by around 6.7 square metres when compared to the scheme permitted by the Council under application PP/17/04718. This would be achieved by moving the balustrade around 2.3 metres closer to No 11 so that it would sit broadly on top of the side wall of the extension. The Appellant has stated that the permitted position of the balustrade would be around 12 metres from the windows at No 11 and therefore the current proposal would reduce this to around 9.7 metres. The Appellant also considers that this is a significant fallback position.
8. From standing on the roof of the rear extension I was able to look from broadly the original position of the balustrade, the balustrade position permitted in permission PP/17/04718, and the current proposed position. When looking towards the windows on the front elevation of No 11, I observed that there were clear views from the current proposed position and the position permitted by application PP/17/04718. There were also views from the balustrade position prior to works commencing on the pre-existing roof terrace, albeit to a lesser extent owing to the increased distance to No 11.
9. The main concern arises in respect of views into the first floor windows on No 11 from the roof terrace. I observed that the window closest the side elevation of No 11 was partially obscured by a tree in the garden of No 11. Views through the next nearest window included principally a view of the internal side wall of the room given the viewing angle between the roof and the window itself.

10. Taking this into account, and the fact that a very similar level of overlooking would occur from the extended balcony which has already been permitted by the Council, I consider that the increased size of the roof terrace would only have a very limited additional impact on the privacy of the occupiers of No 11.
11. Policy CL 5 of the Royal Borough of Kensington and Chelsea Consolidated Local Plan (2015) (CLP) sets out that the Council will require new development to ensure that there would be good living conditions for the occupants of existing and neighbouring buildings. The Council seek to deliver this by requiring that there is reasonable visual privacy occupants of existing properties affected by new development.
12. Therefore, given the existing development in the area and the degree of overlooking which already occurs (and would occur from the fallback position), I am of the view that the development would still result in a reasonable level of visual privacy to the occupants of No 11. To that end, I find that the development would accord with Policy CL 5.
13. I have also had regard to the relationship of the site with the properties on Hollywood Road. From what I observed on site, there is already significant overlooking between the appeal property and the rear windows of the upper floors of several premises. To my mind, the increased size of the roof terrace would have little impact on these properties in relation to overlooking and privacy.
14. I have also considered the potential for increased noise and disturbance, loss of light and concerns over the general enjoyment of the Hollywood Road properties. Given the residential use of the appeal property, I find that the increased size of the roof terrace would not give rise to any significant harm in respect of additional noise or disturbance or to the general enjoyment of these properties as a whole.
15. Turning to the potential loss of light, the extension itself is set well below the boundary wall to the Hollywood Road properties and would be seen in the context of the adjacent garage on Farrier Walk. Similarly, the balustrade would not be at a height which would have any real impact to the neighbouring properties. Taking these factors into account, I find that there would not be any noticeable loss of light as a result of the development.
16. For the above reasons the development would not give rise to an unacceptable level of overlooking and loss of privacy and would accord with Policy CL 5 of the CLP which amongst other matters seeks to ensure good living conditions for the occupants of neighbouring buildings, including reasonable visual privacy.

Other matters

17. The appeal site lies adjacent to The Boltons Conservation Area. In terms of the character and appearance of the area, the current proposal is very similar to the permission already granted by the Council with the main visual differences being the re-positioned balustrade, the amended design of the French doors to the roof terrace and the change from three roof lights to two rooflights. To my mind, the current proposal would preserve views into and out of the Conservation Area and would also preserve its setting and would accord with the heritage aims of the National Planning Policy Framework.

Conditions

18. The Council has provided a list of suggested conditions that it considers would be appropriate. I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.
19. Given that the development has already commenced, it is not necessary to impose the standard time limit condition. From what I observed on site, the materials used in the external surfaces of the building match the existing building and therefore it is not necessary to impose such a condition.
20. In relation to the suggested conditions relating to the railings which form the balustrade, and that the external doors should be painted timber, I consider that both of these conditions are necessary in the interests of the character and appearance of the area.
21. I have also imposed a condition to ensure that the development is carried out in accordance with the approved plans for the reason of certainty.

Conclusion

22. Taking all matters into consideration, I conclude that the appeal should be allowed.

Chris Forrett

INSPECTOR