
Appeal Decision

Site visit made on 15 June 2020

by P W Clark MA(Oxon) MA(TRP) MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 1st July 2020

Appeal Ref: APP/X5990/W/19/3242956

Basement flat, 203 Kilburn Park Road, London NW6 5LG

- 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 R Shah against the decision of City of Westminster Council.
 - The application Ref 19/07126/FULL, dated 13 September 2019, was refused by notice dated 15 November 2019.
 - The development proposed is a single storey side and rear extension and internal alterations.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey side and rear extension and internal alterations at Basement flat, 203 Kilburn Park Road, London NW6 5LG in accordance with the terms of the application, Ref 19/07126/FULL, dated 13 September 2019, subject to the following conditions;
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with approved plan KILPR PL-01 A.
 - 3) Except for piling, excavation and demolition work, any building work which can be heard at the boundary of the site must be carried out only:
 - between 08.00 and 18.00 Monday to Friday;
 - between 08.00 and 13.00 on Saturday; and
 - not at all on Sundays, bank holidays and public holidays.Piling, excavation and demolition work must be carried out only:
 - between 08.00 and 18.00 Monday to Friday; and
 - not at all on Saturdays, Sundays, bank holidays and public holidays.Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety)
 - 4) Notwithstanding the details of the glazed pitched roof shown in PL-01 Rev. A, the roof of the infill section must not be formed of clear glass,

and must be fixed permanently shut. Application must be made to the local planning authority for approval of a sample of the glass (at least 300mm square). Work must not start on the relevant part of the development until the local planning authority has approved the sample. The type of glass the local planning authority has approved must be fitted and must not be changed without the local planning authority's permission.

- 5) The glazed pitched roof must be fitted with blackout blinds which must be drawn shut when lights are illuminated within the extension during the hours of darkness.
- 6) The roof of the extension must not be used for sitting out or for any other purpose. It can however be used for escape in an emergency.

Main Issues

2. There are two. They are the effect of the proposal on
 - The character and appearance of the building and area
 - The living conditions of residents of neighbouring properties.

Reasons

Character and appearance

3. The site is in the lowest floor of a typical Victorian terrace house on a narrow plot with a deeply projecting partly three storey and partly single storey service wing at its rear forming a narrow lightwell between adjoining properties. The proposal would extend the single storey element deeper into the garden and would largely infill the light well to the side, leaving a small courtyard between the infill and the rear wall of the main house.
4. In doing so, it would remove a characteristic bay window in the flank of the lightwell but this is not a designated heritage asset identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Even if it were such, the original plan form of the building can be appreciated in its upper floors, clearly visible over the extended single storey part of the service wing from the elevated garden to the rear of the property.
5. The area to the side of the extended service wing would be roofed in glazing. This, in combination with the removal of the bay window would improve the functioning of the lightwell by admitting a greater degree of light to the ground floor of the service wing. In so doing it would contribute to the health and well-being of the residents of the flat, in accordance with policy S29 of the Westminster City Plan November 2016 and would provide high quality floorspace that can adapt to changing circumstances over time in accordance with policy S28.
6. I conclude that the proposal would not harm the character and appearance of the building or area. It would comply with the highest standards of sustainable and inclusive urban design and architectural quality, using high quality, durable materials in compliance with policy DES1 of the Unitary Development Plan. It would accord with policy DES5 of the Unitary Development Plan in that it would be at the rear of the existing building, not dominating the three storey height

of the service wing, in scale with the existing building and its surroundings; its design would include a parapet height to match the existing, its materials are shown to match the existing building and no external equipment or apparatus is shown to be proposed; it would not rise above the penultimate storey of the existing building, would not occupy an excessive part of the garden, would not roof over or enclose any basement area, or lose a gap of significance between buildings and is not an entrance canopy.

Living conditions

7. Number 201 Kilburn Park Road, the neighbouring property, is handed in plan and so shares the lightwell with the appeal property. It too has had the single storey element of its service wing extended rearwards to the same depth as that proposed in the current appeal but it has retained its half of the lightwell open, with the bay window and another window in the side of its extension facing the appeal proposal. Although the parapet on the garden facade would be higher, the glazed roof of the appeal proposal would slope down to approximately the height of the existing wall on the boundary and so the extension would make no difference to the daylight received at number 201 where the ground level is in any event about four courses of brickwork higher than that at the appeal site. Were it not for a substantial bush planted in the neighbour's garden in front of the side window, it would be able to receive light over the top of the extension proposed.
8. There are no level differences between the appeal site and number 205 to its south-west. The single storey part of the service wing at number 205 Kilburn Park Road is attached to that at number 203 and has a window in its rear elevation. The proposal would extend three metres deeper into the garden than that rear elevation but the effects caused by an extension of that depth are generally expected to be within the bounds of what is commonly acceptable. Moreover, the extension proposed at number 203 would be sited to the north-east of number 205, an orientation which is likely to cause the least adverse effect on the neighbouring property.
9. There is a concern that the glazed roof of the extension would cause upward light pollution to affect the living conditions of those in flats on the upper floors of 203 Kilburn Park Road. Although not suggested by the Council, a condition requiring the installation of blackout blinds and their use when lights are switched on during hours of darkness would resolve that issue.
10. There is also a concern that the use of the glazed part of the extension would permit seated residents a view upwards into the windows of upper flats in the property. The view would be much more oblique and therefore less intrusive than views which can be presently had (and would continue to be had) from users of the elevated garden but the slight risk of loss of privacy can be dealt with by a condition prohibiting the use of clear glass, as suggested by the Council.
11. Other conditions suggested by the Council would be necessary for the reasons given in the Council's statement, except for the use of matching materials, which are shown on the approved drawing, compliance with which is required by condition 2. With those conditions in place, I conclude that the proposal would have an acceptable effect on the living conditions of neighbouring residents. It would comply with that part of Westminster City Plan policy S29 which resists unacceptable material loss of residential amenity and with Unitary

Development Plan policy ENV13 which is concerned with the retention of adequate sunlight, daylight and privacy.

P. W. Clark

Inspector