



Appeal Decisions

Site visit made on 18 November 2020

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th December 2020

Appeal A Ref: APP/A5270/D/20/3255271

17 Rusthall Avenue, Chiswick W4 1BW

- 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 Andrew Cocker against the decision of the Council of the London Borough of Ealing.
 - The application Ref 201461HH, dated 9 April 2020, was refused by notice dated 12 June 2020.
 - The development proposed is described as a ground and 1st floor rear extension; excavation to provide basement, including lightwell to rear and pavement lights to street frontage; creation of a balcony to the first-floor front elevation; installation of front dormer window; alteration to the boundary wall including installation of a fence and a gate; installation of 8 solar panels and installation of one roof lights to front roof slope.
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Appeal B Ref: APP/A5270/D/20/3250263

17 Rusthall Avenue, Chiswick W4 1BW

- 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 Andrew Cocker against the decision of the Council of the London Borough of Ealing.
 - The application Ref 194508HH, dated 16 October 2019, was refused by notice dated 20 December 2019.
 - The development proposed is described as the construction of a new rear two-storey extension. Construction of a new dormer window to the front roof to match the existing one, along with a velux window and also a velux to the rear roof. Extension of the roof/balcony to the front facade in the manner of its attached neighbour no.19. Erection of a new front fence in the style of the Bedford Park houses. Excavation of a basement under the footprint of the house with lightwells to the front and rear of the house. The provision of photovoltaic panels on the flat roof.
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Decision

1. Both appeals are dismissed.

Procedural Matter

2. Both appeals concern a number of proposed changes to the appeal building. They are described in the relevant sections above. The Council's objections however relate to the proposed extensions to the rear which are very similar on each scheme. This element is therefore the focus of my decision.

Main Issue

3. The main issues in the case of both appeals is the effect of the proposed development on a) the character and appearance of the area; and b) the living conditions of the occupiers of No 19 Rusthall Avenue.

Reasons

Character and Appearance

4. The appeal building is a two storey semi detached dwelling. It is of traditional scale, proportions and design and features a two storey outrigger extension to the rear. There is a large first floor window adjacent the outrigger which opens onto an enclosed balcony. Save for some minor changes to the front elevations and the addition of dormer windows in the roof, the appeal building retains much of its historic character and original detail and is a close mirror image of No 19.
5. The proposed extensions to the rear would span the width of the original building. This would not only remove the two storey outrigger extension but also obscure the original rear elevation, erasing its traditional portioning and fenestration. It would also result in the loss of the inset balcony as it marries up to No 19. In addition, the amount and bulk of the extensions would noticeably unbalance the pair of buildings.
6. Viewing the proposed rear extensions from the rear garden to the appeal building and the aforementioned balcony, one can appreciate the scale of alterations local buildings have benefitted from in the past. These have been a mix of single and two storey rear additions which have, to varying extents, diluted their historic character, meaning there are few examples of the more traditional features remaining.
7. As a result of the extensions, the building would appear as more traditional to the front, and ultra-modern to the rear. I feel this could be made to work as either a new building with contrasting elevations and one that is perhaps sat alone but in its context and with the above in mind, the modern appearance would appear overly large, jarring and awkward, leading to the loss of some key historic features that are evidently in short supply locally.
8. The appeal schemes would therefore be harmful to the character and appearance of the area. Such that they would be contrary to Policies 7.4 and 7.6 of the London Plan 2016, Policies 1.1 and 1.2 of the Core Strategy¹ and Policy 7.4 of the Local Plan². Amongst other things and along with the Framework³, these policies seek to ensure that new development is of the highest standard in regard to architecture that is suited to its context, local form and character in terms of scale and detailing, having regard to the function and structure of areas.

Living Conditions

9. The proposed extensions would project from the ground and first floor of the appeal building. Whilst the shape of the side walls would curve away from the shared boundary with No 19, I feel the first floor window as it corresponds with

¹ Ealing Development Strategy 2026 Development Plan Document 2012

² Ealing Development Management Development Plan Document 2013

³ The National Planning Policy Framework 2019

the one opening out onto the balcony in the appeal building would be unacceptably affected. The window is already directly adjacent to a blank brick wall in the form of No 19s own outrigger extension and the erection of the first floor element of the scheme particularly would give rise to a tunnelling effect on the outlook from the window. Impinged as it would be by the side walls of built form in close proximity to both of its sides. This outlook would be unacceptable for occupiers of the room the window serves, garnering an enclosed and oppressive feel. Since the window in question serves a balcony which could be used as a sitting out area, the experience of it would be similarly affected by the proposed extensions.

10. As a result of the above, the appeal schemes would harm the living conditions of the occupiers of No 19 Rusthall Avenue. This would lead to conflict with Policy 7B of the Local Plan which, amongst other things, seeks to ensure that new developments achieve a high standard of amenity for users and adjacent users.

Other Matters

11. As I have alluded to above, I am not averse to the use of modern design and I can see from the plans and the supporting information that a great deal of thought has been given to it. However, I feel this has been looked at as too much a stand alone feature with insufficient regard paid to the original features of the host buildings. Purely on the basis of the design of the extensions therefore and their undoubted quality in isolation, I am not minded to allow the appeal.
12. I am reminded in the evidence that the appeal schemes, in regard to the extensions, would affect the rear of the building and as a consequence they would be well screened from obvious public views. Notwithstanding, the rear elevation would remain highly visible to occupiers of dwellings either side and those that back onto the appeal site. The lack of public views would not therefore reduce the harms I have found in regard to the first main issue.
13. Both the appellant and the Council refer to a '45 degree rule' when assessing the effect of the extensions on the living conditions of the occupiers of No 19. This appears to be that the first floor elements would not breach a 45 degree line taken from the centre line of the closest window. Be this as it may, this is meant as a guide only and as far as I can see it is not enshrined in policy. In any case, said line fails to take account of how encumbered the window in question is currently by its own outrigger extension. This matter does not therefore weigh in favour of the appeal schemes which, in any event, would be a lack of harm. It would also fail to have a bearing on my findings in regard to the first main issue.

Conclusion

14. For the reasons set out above, the appeals are dismissed.

John Morrison

INSPECTOR