



Appeal Decision

Site visit made on 26 November 2020

by Martin H Seddon BSc MPhil DipTP MRTPI

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

Decision date: 12 January 2021

Appeal Ref: APP/H5390/D/20/3258521

52 Batoum Gardens, London W6 7QD

- 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 N Feinberg against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref 2020/01320/VAR, dated 20 May 2020, was refused by notice dated 3 August 2020.
 - The application sought planning permission for erection of a rear extension at second floor level, on top of the existing back addition; erection of a single storey rear extension; excavation and enlargement of the existing basement; alterations to existing front door, and erection of front boundary wall, without complying with a condition attached to planning permission Ref 2019/03771/FUL, dated 7 May 2020.
 - The condition in dispute is No.2 which states that: "The development shall not be erected otherwise than in accordance with the detailed drawings which have been approved and are stated on this decision notice."
 - The reason given for the condition is: "In order to ensure full compliance with the planning drawings hereby approved and to prevent harm arising through deviations from the approved plans, in accordance with policies HO11, DC1, DC4 and DC8 of the Local Plan (2018)."
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Decision

1. The appeal is allowed and planning permission is granted for erection of a rear extension at second floor level, on top of the existing back addition; erection of a single storey rear extension; excavation and enlargement of the existing basement; alterations to existing front door, and erection of front boundary wall in accordance with the application Ref: 2020/01320/VAR, dated 22 August 2019, without compliance with condition number 2 previously imposed on planning permission Ref 2019/03771/FUL, dated 7 May 2020 and subject to the conditions listed at the end of this decision notice.

Preliminary Matters

2. The appellant sought to replace the following drawings referred to by condition 2:

1904_00_211_P05_Proposed_Elevations

1904_00_221_P02_Proposed_Section_AA

With:

1904_100_211_P01_Proposed _Elevations

1904_100_221_P01_Proposed _Section_AA

Main Issues

3. The main issues are:

- The effect of the proposal on the character and appearance of the building and Melrose Conservation Area, and
- The effect on the living conditions of the occupants of No.54 Batoum Gardens in respect of outlook and received daylight and sunlight.

Reasons

Character and appearance of the building and Conservation Area

4. The appeal building is a three storey terraced house with a basement. The appellant seeks to extend the approved 2nd floor rear extension by around 500 mm and to extend the height of the ground floor extension to around 3300 mm from ground level. The single storey ground floor extension would extend to meet the length of the neighbouring extension at No.50 but would project beyond the single storey extension at No.54. There would be no alteration to the front elevation of the property.
5. The development plan includes the Hammersmith and Fulham Local Plan (2018). The core of Melrose Conservation Area consists of residential terraces dating from around 1880. The *Conservation Area Character Profile* advises that views to the rear of terraces within and outside the conservation area are important and that the rhythm created by the rear additions and the chimneys to these and the main building is of particular note. The conservation area boundary was extended to include buildings including No.52 Batoum Gardens after the *Character Profile* was published.
6. The appellant has submitted a list of properties in Batoum Gardens, Melrose Gardens and Sulgrave Road with rear extensions to eaves height which the appellant considers form a precedent for the appeal proposal. However, no details of the planning history for these examples have been submitted, other than that for the rear extension at No.42 Batoum Gardens. Although this extension reached eaves height, it was allowed by the Council in 2012. The reason for this, in part, was that the rear addition at No.40 Batoum Gardens was already higher than the back addition at No.42. The Council considered that there was no distinct rhythm of back additions at the terrace and that the proposed increase in height of the extension would not result in an over-dominant form of development to the rear elevation. Although this permission pre-dated the Council's current planning policies and guidance, I consider that the design considerations would have been similar in terms of context, proposed scale, form height and massing.
7. The rear extensions to the properties at either side of No.52 do not reach eaves height. There is no regularity to the height of rear extensions in the terrace, but a significant number of rear extensions to eaves height have been

constructed within the terrace. The proposed rear extension would not be visible from surrounding streets because of the enclosed nature of the surrounding terraced development. It would be seen from rear windows in facing terraced properties at Melrose Gardens. However, I note that there are also rear extensions to eaves height at Melrose Gardens.

8. I find that the proposed extension would complement others at the rear of the terrace. It would not appear over-dominant and would be of a height, scale and mass which would appear subservient to the building. Having regard to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 the proposal would preserve the character and appearance of the Melrose Conservation Area. It would not conflict with Local Plan policies DC1 and DC4 which seek to ensure good design in extensions and alterations to buildings, and DC8 and Key Principle CAG3 of the *Planning Guidance Supplementary Planning Document (2018)* which concern new development in conservation areas.

Effect on the living conditions of neighbours

9. The nearest rear second floor window at the adjacent building of No.54 Batoum Gardens serves a landing. There would be a slight increased loss of daylight/sunlight to this window and increased loss of outlook because of the greater height of the proposed extension compared to that already approved by the Council. However, the increased harm would not be significant, particularly as the window does not serve a habitable room.
10. The rear first floor window at No.54 is smaller than its second floor rear window and set further away from the proposed extension than the second floor window. Although the first floor window would be lower than the proposed extension, any increased loss of outlook and sunlight/daylight to this window or any other rear windows at No.54 would be slight. I find that the proposal would not conflict with Local Plan policies DC1, DC4 and HO11 which seek to protect the amenity of neighbours and Key Principles HS6 and HS7 of the *Planning Guidance Supplementary Planning Document* regarding the scale and massing of house extensions and their impact on the outlook from neighbouring windows.

Conditions

11. I have repeated the conditions stated in the approved permission ref: 2019/03771/FUL, with the exception of condition 2, which includes revised drawing numbers in accordance with those sought by the appellant.

Conclusion

12. I have taken all other matters raised into account. For the reasons given above the appeal is allowed.

Martin H Seddon

INSPECTOR

CONDITIONS

- 1) The development hereby permitted shall not commence later than the expiration of 3 years beginning with the date of this planning permission.
- 2) The development shall not be erected otherwise than in accordance with drawing Nos. 1904_100_211_P01_Proposed_Elevations, 1904_100_221_P01_Proposed_Section_AA, 1904_00_201_P01, 1904_00_202_P01, 1904_00_203_P01, 1904_00_204_P01, 1904_00_205_P01, and 1904_00_206_P01.
- 3) Any alterations to the elevations of the existing building, including works of making good, shall be carried out in the same materials as the existing elevation to which the alterations relate.
- 4) No part of any roof of the building or the extension hereby approved shall be used as a roof terrace or other form of open amenity space. No alterations shall be carried out; nor planters or other chattels placed on the roofs. No railings or other means of enclosure shall be erected on the roofs, and no alterations shall be carried out to any elevation of the application property to form access onto the roofs.
- 5) No water tanks, water tank enclosures or other structures shall be erected upon the flat roofs of the extensions hereby permitted.
- 6) The development shall be carried out in accordance with the details contained within the Flood Risk Assessment received on 20.01.2020. All flood prevention and mitigation measures should be installed in accordance with the approved details prior to the occupation of the development.
- 7) The walls of the rear extension hereby approved shall be finished in facing brick to match the colour and material of the main rear elevation and shall thereafter be permanently retained in this form.
- 8) The proposed doors to the ground floor rear extension hereby approved shall be finished in aluminium and be bi-folding and shall thereafter be permanently retained in this form.
- 9) The proposed windows to the second floor rear extension hereby approved shall be painted timber sash and shall thereafter be permanently retained in this form.