



Appeal Decision

Site visit made on 20 October 2020

by Sarah Colebourne MA, MRTPI

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

Decision date: 12/01/2021

Appeal Ref: APP/X5990/D/20/3250502

1 Graces Mews, London, NW8 9AZ

- 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 Miss E Chan against the decision of the City of Westminster Council.
 - The application Ref 19/06186/FULL, dated 6 August 2019, was refused by notice dated 10 March 2020.
 - The development proposed is described as a 'a ground floor side extension with roof light and green roof – amendment, following permission 17/08935/FULL'.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The Council's decision describes the proposed development as the 'retention of rear existing extension as built, except for, the removal of brick perimeter upstands and coping stone and the replacement artificial turf with ply membrane flat roof and roof tiles to sloping roof.' It is clear from the submitted documents that this describes the proposal more accurately and this forms the basis for my decision.
3. At my visit, I was unable to gain access to the appeal site but as I was able to see all that I needed to from the neighbouring property and from a communal garden area, I am satisfied that the appellant's interests have not been prejudiced.

Reasons

4. The main issue in this case is the effect of the proposed development on the living conditions of the neighbouring occupiers at no 2 Graces Mews.
5. The appeal property is an end of terrace dwelling in a modern block of similar properties, sited to the rear of two large apartment blocks. Permission was granted in 2018 (17/08935/FULL) for a single storey rear extension and a first floor side extension with associated alterations and rooflights. The extensions have been built but the Council says that the rear extension has not been built in accordance with the plans in that it is higher than approved and the boundary treatment differs. It was also built with a different roof finish but I note that the Council has no objection to the removal of the upstands, the replacement roof coverings and on the basis of what I saw, I would agree that these elements would be acceptable.

6. The partially completed rear extension extends across most of the previous patio area up to and along the full length of the side boundary with the adjoining property at no 2. It has a flat roof over most of its area with a small sloping section where it abuts the rear boundary. Where it adjoins the existing house, there will be a small lightwell on either side of inset full height, side windows.
7. The adjoining property at no 2 has its main bedroom at ground floor level at the rear of the property. It has a patio window which comprises a full height, opening glazed door with full height fixed glazed panels to the side. This is the sole window to that room. The outlook from no 2 is already somewhat enclosed by its proximity to the large apartment block to the rear and by another to the side beyond the appeal property.
8. The plans for the approved extension as submitted by the appellant show a height of 2.696 at flat roof level although the Council says that as a result of ambiguity over pre-existing ground levels the approved extension measured 2.8m from the ground level of the pre-existing patio. The Council says that when measured from the adjoining property at no 2, the extension as built measures 3.1m and is therefore 300mm higher than as approved. However, the Council's report does not appear to take into account the removal of the upstand which it says is some 0.1m high.
9. On the other hand, the appellant's plan in Appendix II shows that the extension as built has a height of 2.89m. The plans in Appendix III show that the proposed extension, following the removal of the brick upstands and coping stone and the replacement roof covering, would be 2.70m in height and concludes that it would be only 40mm (flat roof) and 170mm higher (sloping roof) than approved.
10. At my visit I saw that the extension remains as built but that the upstand and coping stone have been removed and a grey capping added. The wall along the side boundary has not been completed and there are no plans showing that elevation when seen from the neighbouring property. However, it is clear to me from what I saw at my visit that when completed, the height of the extension would align with the lowest part of the window frame and the top of the white timber boxing below it. The Council says that was not the case with the approved extension which would have sat below the timber boxing and the appellant has not disputed that. This would necessitate an additional three or four courses of brickwork above the approved scheme.
11. Although the plans are unclear in regard to the boundary treatment, it is clear that the side wall of the extension has replaced the previous, lower fence which the Council says was to be retained in the approved scheme. The proposed plans appear to show a single skin wall on the boundary where it encloses one of the small lightwells. There are no elevations of that but the partially complete wall already further increases the mass of built development along the boundary whereas the previous fence would have broken up that mass to an acceptable degree.
12. Notwithstanding the discrepancies between the plans and the differences between each party's height measurements, it is clear that the current proposal would be slightly higher than that approved. I have noted that the Planning Officer's report for the approved extension did not raise any concerns in regard to residential amenity. However, given that the outlook from no 2 was already

somewhat enclosed, it seems to me that given the very small size of the outside patio area and the proximity of the sole window to the main bedroom at no 2, the approved extension was at the maximum limit of what is acceptable in this context. Therefore, any increase beyond that would take it over a tipping point and make it unacceptable. The additional brickwork in such close proximity would create an unduly high and oppressive feature which would be unduly overbearing when seen from the master bedroom and patio of no 2. This would result in significant harm to the outlook enjoyed by the occupier/s, thereby harming their living conditions.

13. I conclude that the proposal would be contrary to the Council's development plan policies S29 in the Westminster City Plan and ENV13 in its Unitary Development Plan which seek to protect residential amenity. There are no material considerations that justify determining the appeal otherwise and the appeal should be dismissed.

Sarah Colebourne

Inspector