



Appeal Decision

Site visit made on 20 October 2022

by D Barlow BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 December 2022

Appeal Ref: APP/K5600/D/22/3302069

114 Portland Road, Kensington and Chelsea, London, W11 4LX

- 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 Nigel Toon and Sally Doherty against the decision of the Royal Borough of Kensington and Chelsea.
 - The application Ref: PP/22/01759 dated 11 March 2022, was refused by notice dated 18 May 2022.
 - The development proposed is a renovation of the existing house including removal of paint from brickwork on front façade, addition of front lightwell stair, rear extension, remodelling of rear garden, alteration of rear windows at ground and lower ground, creation of new roof terrace.
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Decision

1. The appeal is allowed and planning permission is granted for the renovation of the existing house including removal of paint from brickwork on front façade, addition of front lightwell stair, rear extension, remodelling of rear garden, alteration of rear windows at ground and lower ground, creation of new roof terrace at 114 Portland Road, Kensington and Chelsea, London, W11 4LX in accordance with the terms of the application Ref PP/22/01759 dated 11 March 2022, subject to the conditions in the attached schedule.

Procedural Matter

2. The appellants are requesting that I consider an amended set of drawings which show the reduction of the size of the roof terrace, including a metre setback from the rear elevation and 0.5m from the front elevation; alterations to the shape of the fenestration of the new rear extension; and the addition of obscure glazing to the side windows of the new extension. These were submitted to the Council prior to the determination of the application, but the Council indicated they did not form part of its decision. I have considered this evidence under the principles established by the courts in *Wheatcroft*¹ and consider that they do not change the development to a degree that would prejudice those who should have been consulted of the change, the opportunity to comment. Accordingly, I have assessed the proposal on the basis of the revised drawings.

¹ Bernard Wheatcroft Ltd v SSE (JPL, 1982, P37)

Main Issue

3. The main issues are the effect of the rear extension and roof terrace on the character and appearance of the host property and Norland Conservation Area, and the effect of the rear extension on the living conditions of neighbouring occupiers, with particular regard to outlook and privacy.

Reasons

Character and Appearance

4. The host property is an early Victorian mid terrace three storey house that lies within the Norland Conservation Area. The attractive street is characterised by three storey properties with basements that are enclosed by metal railings, typical of the period and making a positive contribution to the character and appearance of the area. The significance of the Conservation Area is the high quality environment which reflects the Victorian Master Planning of the area, with its strong urban pattern and unified built form.
5. No 114, similar to its neighbours has a small rear garden. The existing single storey extension would be replaced with a 3 storey extension of a similar footprint with the rear garden redesigned on two levels with stairs and steps accessing the upper garden which is at existing ground level. The proposed extension would be subservient to the existing building in terms of scale, height and design, and would be of a similar scale to the rear extension at No 116. Its limited footprint would not result in a significant loss of garden space. The roof terrace proposed, which would not be visible from Portland Road itself, would be of a modest size and would be set back from the existing front and rear elevations of the host property. Although there may be glimpses of these aspects of the proposal from Clarendon Road, the development would be viewed in the context of the built form of the terrace and would not harmfully erode the character or appearance of the area.
6. Concerns were raised about the windows above the ground floor on the proposed rear extension and these have now been amended by the Appellants to be in keeping with the rest of the building. The proposed lightwell stair and gate would retain similar openings to the existing and are both in keeping with neighbouring properties.
7. Given the above, I conclude that the proposal would respect the character and appearance of the host property and would preserve the character and appearance of the Norland Conservation Area. This is in accordance with Local Plan (September 2019) Policies CL1, CL2, CL3, CL9 and CL11, Policy N2 and N3 of the Norland Neighbourhood Plan (NNP) and the Norlands Conservation Area Appraisal. These policies and guidance seek, amongst other things to ensure that character is respected, that design quality is high, that extensions are subordinate to the original building and that the character or appearance of conservation areas is preserved or enhanced. Specific guidance is given to the Eastern side of Portland Road within the NNP. Policy N10A accepts that extensions can meet the needs of growing families provided that they remain subservient to the host building and context of the site. Paragraph 1.2.52 then gives specific guidelines as to what would be acceptable. The Local Council agrees that the proposed extension complies with these guidelines and I concur with their view.

Living Conditions

8. The proposed rear extension would have a similar footprint to the existing single storey extension and would be in line with the closet wing extension to No 116 Portland Road, with the exception of a modest projection at ground floor level. The extension would be located in a Southerly direction to No 116, however because of its relationship to the rear extension at this property, it would be unlikely to reduce light within the rear garden of No 116 to a noticeable degree. No substantive evidence has been provided to demonstrate otherwise.
9. No 112's rear garden is located in a northerly direction to the new extension. Given the modest rearward projection of it and its orientation relative to this neighbour's garden, any loss of light would be unlikely to be discernible
10. The proposed rear extension is set away from the party boundary with No 112 and whilst it would be visible from the rear garden it is located sufficiently far away to not appear intrusive or overbearing from this area. Given the relationship to the extension to the rear of No 116, again whilst visible from the rear garden of this property, the extension would not be intrusive or overbearing. There would be no unacceptable loss of outlook or openness for the neighbouring occupiers.
11. The Council had concerns about direct overlooking of the side windows into neighbouring property. There are only two floors above ground floor level and the Appellant has agreed to a condition whereby obscured glazing would be provided within these windows which would serve a study and bathroom. This would prevent any loss of privacy to nearby occupiers and this matter could be controlled by planning condition.
12. The proposed lightwell also causes no impact on the living conditions of neighbouring occupiers as it is the same size as the existing window and door.
13. I therefore conclude that the proposed development would not harm the living conditions of neighbouring occupiers in terms of outlook or privacy in accordance with Local Plan Policy CL5, which seeks development to ensure good living conditions for occupiers of existing and neighbouring buildings.

Other Matters

14. Concern has been raised regarding drainage and also flooding risk through lowering part of the garden. The changes to the levels within the garden and water from the roof terrace may affect drainage on the site, but this matter can be controlled by a suitably worded planning condition.

Conditions

15. The Council has provided a list of conditions, which I have assessed in regard to the advice provided in the National Planning Policy Framework and the Planning Practice Guidance.
16. Condition 1 is as required by the Town and Country Planning Act 1990; Condition 2 is necessary for certainty; Conditions 3-6 are necessary to protect the character and appearance of the area; Condition 7 is necessary to protect

the living conditions of nearby occupiers and Condition 8 is necessary to ensure that the site is suitably drained.

17. The suggested Conditions on roof structures and appliances, the Construction Traffic Management Plan, the Code of Construction Practice, Flood Risk Assessment and the Roof Terrace (no tall items) are neither reasonable or necessary given the scale and nature of the development. I have therefore not imposed them.

Conclusion

18. Having regards to all other relevant considerations, and for the reasons given above, I conclude that the appeal should succeed.

D Barlow

INSPECTOR

Schedule of Conditions :

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development shall not be carried out except in complete accordance with the details shown on submitted plans Dwg. No.110 P 19,P 20,P 21,P 22,P 24 (Rev B),P 35,P 36 (Rev A),P 45 (Rev B) and P 46 (Rev B).
3. All work of making good shall be finished to match the existing exterior of the building in respect of materials, colour, texture, profile, and in respect of brickwork, facebond and pointing, and shall thereafter be so maintained.
4. External windows and doors hereby permitted shall be timber framed and painted, with the windows being double hung, white painted, sliding sashes, and so maintained.
5. All external metalwork (including front stairs and roof level perimeter railings) shall be painted black and so maintained.
6. Detailed drawings or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the Local Planning Authority before the relevant part of the work is begun, and the works shall not be carried out other than in accordance with the details so approved and shall thereafter be so maintained:
 - (a) A report and method statement for the removal of paint from the property's front elevation wall.
 - (b) Details (floor plans and elevations as appropriate) of the new front lightwell stairs which should be made of metal or natural stone.
 - (c) Details of the roof level perimeter balustrading.
7. The windows to the side elevation of the rear extension at first and second floor levels, shall be obscurely glazed, fixed shut and thereafter maintained.
8. Details of the method of drainage to be used on the roof terrace and the basement shall be submitted to and approved by the Local Planning Authority before the relevant part of the work is commenced. The work shall be carried out in accordance with the approved details and thereafter maintained.