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The Planning Inspectorate

Appeal Decision

Site visit made on 8 March 2023

by C J Leigh BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th April 2023

Appeal Ref: APP/N5660/D/22/3311488
113 Hopton Road, London, SW16 2EL

- 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 Alvi Ishmael against the decision of the Council of The London Borough of Lambeth.
- The application 22/03064/FUL, dated 24 August 2022, was refused by notice dated 21 October 2022.
- The development proposed is described as alterations to single storey extension (amended).

Decision

1. The appeal is dismissed.

Main issue

2. The main issue is the effect of the proposed development on the living conditions of adjoining occupiers with particular regard to outlook.

Reasons

Effect on living conditions

3. The appeal property has a relatively extensive planning history. For the purposes of this appeal the most relevant is the planning permission granted for the erection of a single storey ground floor rear and side infill extension (ref. 18/00439/FUL, granted 27 March 2018). This was not erected according to the approved plans and enforcement action was undertaken with an Enforcement Notice issued 7 July 2020. A subsequent appeal was successful in the limited sense that the requirements of the Enforcement Notice issued by the Council required either removal of the extension or modification to the planning permission (refs. APP/N5660/C/20/3256236, 3256237 & 3256238, dated 20 October 2021). The period for compliance was nine months.

4. The Inspector's decision was clear that the as-built single storey extension caused harm to the living conditions of the adjoining property of 115 Hopton Road by virtue of the projection of the extension beyond the permitted scheme, the height of the extension and its proximity to No. 115. The appellant states that the Inspector was merely making an observation regarding the difference between the as-built extension and the approved extension in relation to the distance from the boundary with No. 115, rather than an issue that needed to be resolved, but that is not the case: my colleague unambiguously concluded

the height of the extension, its extent and proximity to No. 115 leads to a dominant and overbearing feature.

5. It appears that no progress has been made in complying with the terms of the Enforcement Notice. A subsequent planning application was refused permission. The application the subject of this appeal only proposes the removal of a platform to the rear of the as-built extension and a reduction in height of a boiler room. No alterations are proposed to the overall depth of the extension or the position in relation to the boundary.

6. I viewed the extension from No. 115 and I concur with the observations and conclusions of my colleague Inspector: the height and extent of the extension, and its proximity to the boundary of No. 115, cause harm to the amenity of occupants of that property by virtue of the dominant and overbearing impact. The proposed removal of the platform and lowering of the boiler room, as proposed in this appeal, would not materially reduce that significantly harmful impact.

7. On the first main issue it is therefore concluded the proposed development would be harmful to the living conditions of adjoining occupiers, and hence conflict with Policy Q2 of the Lambeth Local Plan 2020-2035, which only supports development if, amongst other matters, it would provide adequate outlook and avoid an undue sense of enclosure.

Other considerations and conclusion

8. The previous Inspector found that there were very limited views of the single storey rear extension and it did not harm the character and appearance of the wider area. From my observations at the site visit I concur with this assessment and I consider there would not be any adverse impact on the locality.

9. The appellant states that he has been active in working to address the issues raised by the Council, and made substantial efforts to work with the Council to resolve issues. I do not agree with such a claim as it is apparent to me that work has not been undertaken to comply with the terms of the Enforcement Notice following the appeal, and the proposals in the current scheme show very little to alter the as-built extension that was found unacceptable. The correspondence with the Council during the course of the application does not demonstrate an unwillingness of the Council to work with the appellant as it merely represents enquiries as to the progress of the application; given the very minor changes to the as-built extension and the outcome of the previous appeals I am not surprised the Council did not enter into further dialogue and chose to refuse permission.

10. Although there is no harm to the character and appearance of the wider area, the harm arising in the main issue substantially outweighs other matters. There is clear conflict with the development plan due to the harm to the living conditions of neighbours, and for the reasons given and the appeal is dismissed.

C J Leigh

INSPECTOR