

Appeal Decision

Site visit made on 11 May 2023

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2023.

Appeal Ref: APP/Z5630/D/23/3315105

6 Gordon Road, Kingston Upon Thames KT2 6BS

- 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 J Harkins against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application, Ref. 22/03552/HOU, dated 8 November 2022 was refused by notice dated 13 January 2023.
 - The development proposed is the erection of a single storey rear extension (retrospective).
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey rear extension at 6 Gordon Road, Kingston Upon Thames in accordance with the terms of the application, Ref. 22/03552/HOU, dated 8 November 2022 and subject to the following conditions:
 - 1) The development to which this permission relates shall be carried out in accordance with the following approved plans: Drawing Nos. 01A; 02A; 03A; 04A; 05;
 - 2) The roof of the extension shall not be used as a roof garden, balcony, seating area or for other amenity purposes and shall not be accessed other than for maintenance or in the case of emergency.

Main Issues

2. The main issues are (i) the effect of the extension on the character and appearance of the area, and (ii) the effect on the living conditions for the occupiers of Nos. 5 and 7 Gordon Road as regards daylight/sunlight. (The Council has erroneously referred to Nos. 4 & 8).

Reasons

3. On the first issue, the Council considers that although the height of the extension and the amount of garden retained are acceptable, the building's depth of 7.5m is not proportionate to the host dwelling.
 4. Following my inspection of the site I am minded to accept this assessment insofar as it relates to ground floor of the original building and I note that the Refusal Notice cites a conflict with Policy D3 of the London Plan 2021 and
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Policies CS8 & DM10 of the Council's Core Strategy 2012. Of these, it is the requirements of Policy DM10 that appear to have the most relevance.

5. However, the character and appearance of Gordon Road is in large measure defined by the row of gable-fronted period houses. These have a regular spacing of about a metre and have an attractive symmetry and rhythm. In particular the houses' pairs of first floor windows and their ground floor bay windows make a positive contribution to the street scene.
6. Of particular relevance in this case, is that the narrowness of the gap between the houses does not allow views of their rear elevations from the road, whilst the development pattern of the area is such that none of the backs of the buildings can be seen from any other public vantage point.
7. The OS Plans submitted with the application also shows that to some degree there is an irregular rear building line, including No. 7 immediately to the east of the appeal dwelling extending further into its rear garden area. The appeal scheme extension stretches a couple of metres or so still further than this.
8. Overall, whilst the depth of the extension might reasonably be argued as being disproportionate to the original dwelling, I consider the absence of any view from the public realm to be a mitigating effect. And to all intents and purposes this removes any conflict with the afore-mentioned policies as regards actual or perceived harm to the character and appearance of the area.
9. Turning to the second issue, the Council says that the extension is likely to affect neighbouring dwellings to either side in terms of outlook and of light entering their rear windows. It is additionally considered that there would be an overbearing effect on their gardens.
10. However, I saw that number 5 has a rear conservatory. The view through this establishes that none of the ground floor glazed openings are of a size, design or siting to be a reliable basis for the application of the 45 degree rule with a finding supportive of the refusal of permission. I was unable to see the rear of No. 7, but the more limited projection of the extension beyond this property again casts doubt on the relevance of the Council's analysis. Moreover, in the case of both Nos. 5 & 7 the dense boundary hedging of the same height as the extension limits the weight of the Council's position as regards its objections in terms of the effect on both light and outlook.
11. The grounds of appeal refer to the prior approval application. Leaving aside the technical arguments as to whether the Council was correct to refuse that application, I consider that the absence of any objection to the appeal proposal from the occupiers of either Nos. 5 or 7 merits significant weight. In short, on this issue I remain unconvinced that there would be harm caused to the living conditions of neighbours as regards light and outlook in conflict with Policy D3 of the London Plan, Policy DM10 of the Core Strategy and paragraph 130f) of the National Planning Policy Framework 2021.

Other Matter

12. A third reason for refusal relates to the absence of a Fire Safety Statement. However, this has now been submitted with the appeal and together with the

Fire Regulations implemented through Building Control I consider that this issue has been satisfactorily dealt with.

Conclusions

13. For the reasons explained, I shall allow the appeal. A condition requiring the extension's construction to be in accordance with the approved plans is needed for the avoidance of doubt and is in the interests of proper planning. A condition stipulating that the flat roof would not be used for amenity purposes will protect the privacy of the neighbours.

Martin Andrews

INSPECTOR