



Appeal Decision

Site visit made on 16 August 2023

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2023

Appeal Ref: APP/H5390/D/23/3319239

15 Eustace Road, London SW6 1JB

- 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 Adrian Bennett against the decision of the Council of the London Borough of Hammersmith and Fulham.
- The application Ref 2022/03107/FUL, dated 24 October 2022, was refused by notice dated 23 January 2023.
- The development proposed is 'erection of an additional floor at roof level; erection of a rear extension at upper ground floor level; terrace at first floor level to roof of upper ground floor extension; installation of a new single door to replace the existing French doors to the rear elevation, infilling of 2no windows and installation of French doors to the side of rear back addition at lower ground floor level'.

Decision

1. The appeal is dismissed insofar as it related to the erection of a rear extension at upper ground floor level and terrace at first floor level to roof of upper ground floor extension.
2. The appeal is allowed insofar as it related to erection of an additional floor at roof level; installation of a new single door to replace the existing French doors to the rear elevation, infilling of 2no windows and installation of French doors to the side of rear back addition at lower ground floor level and planning permission is granted for 'erection of an additional floor at roof level; installation of a new single door to replace the existing French doors to the rear elevation, infilling of 2no windows and installation of French doors to the side of rear back addition at lower ground floor level' at 15 Eustace Road, London SW6 1JB in accordance with the terms of the application, Ref 2022/03107/FUL, dated 24 October 2022, so far as relevant to that part of the development hereby permitted, and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, A99-EX Rev 04, A100-EX Rev 04, A101-EX Rev 04, A102-EX Rev 04, A200 EX Rev 04, A300 EX Rev 04, A301 – EX Rev 04, A302 – EX Rev 04, A303 – EX Rev 04, A99 Rev 04, A100 Rev 04, A101 Rev 04, A102 Rev 04, A103 Rev 04, A200 Rev 04, A300 Rev 04, A301 Rev 04, A302 Rev 04 and A303 Rev 04.
 - 3) Details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before they are

installed. The development shall be carried out in accordance with the approved details.

Preliminary Matter

3. The description of development in the banner heading and my decision above is taken from the appeal form which is consistent with the description stated on the Council's decision notice. It more fully and accurately sets out the development proposed than that on the planning application form, and as it is used by both main parties, I am satisfied that no injustice would be caused by basing my assessment on this description.

Main Issues

4. The main issues are (i) the effect of the proposal on the living conditions of the occupiers of neighbouring dwellings with particular regard to privacy, light and outlook; and (ii) the effect of the proposal on the character and appearance of the host building, terrace and area.

Reasons

Living Conditions

5. The appeal site includes a three-storey mid-terrace dwelling with a deeper projection to part of the rear elevation closest to 17 Eustace Road at lower-ground and, of lesser depth, ground floor levels. As part of the proposal, the ground floor level of the rear projection would be extended to the same depth as the lower-ground floor level. The flat roof of the extension would provide a terrace accessed from the first-floor of the dwelling.
6. Both 13 and 17 Eustace Road have two-storey rear projections with first-floor terraces above to a similar depth as proposed on the appeal site. Screening to the terrace of No 17 along the boundary with the appeal site would prevent harmful overlooking of this neighbour from the proposed terrace. Views would be possible from the terrace towards No 13 and neighbouring properties on Walham Grove to the rear. Based on my observations at my visit however, these views would be little different to those already available from the existing ground and first-floor terraces to the appeal dwelling. There are also similar views towards Walham Grove from the terraces to Nos 13 and 17. While it would be of greater depth than the existing first-floor terrace on the appeal site and of greater height than the ground-floor terrace, I find that the terrace would not result in new views or overlooking that would cause a meaningful loss of privacy for neighbouring occupiers in comparison to the existing situation.
7. However, the extension would result in a significant increase in the depth of the ground-floor of the dwelling. Spacing between the extension and the boundary with No 13 would be modest, and the extension would intrude a 45 degree angle from lower-ground floor windows to the neighbour which appear to be the sole windows to rooms contrary to Key Principle HS7 of the Planning Guidance Supplementary Planning Document 2018. I saw that one of the lower-ground floor windows to the side of No 13 was obscure glazed and so outlook from this room would be unlikely to be materially harmed by the proposal. Nevertheless, I consider that the scale and close relationship of the development would result in a notable loss of outlook from the other glazing. These factors could also cause a loss of natural light, both daylight and

potentially sunlight during the later part of the day. The onus is on the appellant to demonstrate that the proposal would not be harmful, and there is no substantive technical evidence before me to demonstrate that any effect on light to No 13 would be imperceptible or insignificant.

8. I acknowledge that the relationship would be similar to that between No 13 and lower-ground floor windows to the appeal dwelling and that there is similar development at No 17. However, I do not know the full circumstances which led to these developments, and they do not establish a lack of harm, nor offer a compelling justification to allow further development which would harm neighbouring occupiers' living conditions. The appellant has also referred to an example development permitted at 24 Halford Road. However, I have not been provided with full details or plans of the development at No 24 to be able to draw meaningful comparisons with the appeal scheme. The Council's report on that development further indicates that windows to the side elevation of the neighbour at 26 Halford Road are a bedroom that benefits from dual aspect with another rear facing window and so are not the sole windows to the room, and that windows to the rear of No 26 serve en-suites which are not habitable rooms. It is not therefore clear that the relationship of the development at No 24 with the neighbouring property is directly comparable to the proposal before me which I have in any case considered on its own merits on the basis of the evidence before me.
9. Although I am satisfied that the proposal would not cause a harmful loss of privacy, I find for these reasons that the rear extension would cause a loss of outlook for occupiers of the lower-ground floor level of No 13 and it has not been demonstrated that there would not also be a harmful loss of light to these occupiers. Taken together, I conclude that there would be unacceptable harm to the living conditions of the occupiers of 13 Eustace Road. While I acknowledge that occupiers of No 13 have not objected to the development, the harm I have identified would be permanent and the proposal would conflict with Policies DC1, DC4 and HO11 of the Local Plan 2018 insofar as they include requirements broadly for a high quality urban environment, and development that does not harm the amenities of neighbouring properties including in respect of daylight, sunlight and outlook.

Character and Appearance

10. Eustace Road is generally characterised by three-storey terraced dwellings of similar scale, design and proportions including front bay projections, steps up to entrances which are raised above street level and flat roofs. This results in a strong and distinctive sense of rhythm and coherence to the street scene which contributes positively to the character and appearance of the area. However, 13 and 19 Eustace Road have mansard roof forms accommodating additional storeys above the height of their neighbours which mean that the roofscape is not entirely regular and the impression of uniformity is not total.
11. The proposed additional storey within a mansard extension above the existing flat roof of the dwelling would be unusual against the predominantly flat roofs of other buildings on Eustace Road. However, it would sit between the existing mansards at Nos 13 and 19. I acknowledge that these are also unusual and that they predate current planning policies. Nevertheless, they are part of the street scene, and form the immediate context to the appeal site against which the development would be appreciated. In my assessment, the location of the

development between these existing examples means that it would not appear incongruous or unduly prominent. The development would be visually contained between the roofs of Nos 13 and 19, and would not harmfully disrupt the remaining uniformity of the wider roofscape along the street so as to detract from the character or appearance of the area.

12. The roof extension would alter the scale and massing of the host building, but would slope back from the front elevation and I am satisfied that it would appear generally subordinate against the three floors below such that the development would not overwhelm or dominate the host building to the detriment of its character or appearance. Noting also the similar mansards to Nos 13 and 19 close by, I find that the roof extension would not be a discordant element in this part of the street scene.
13. The Council refers to proposals for other roof extensions on Eustace Road which have been refused and in some cases dismissed at appeal. However, the location of the appeal development between the roof extensions at Nos 13 and 19 results in different visual effects and distinguishes the current appeal from the examples on properties located in different parts of the street scene. The circumstances are not therefore directly comparable to the appeal scheme. One of the examples referred to by the Council relates to the appeal dwelling. However, I do not have full details of that development to enable meaningful comparison with the current proposal, and it is not a proposal that the Council indicates was subject of an appeal decision. These examples do not therefore alter my assessment having regard to the individual circumstances of this appeal and the information before me that the proposed roof extension would be acceptable.
14. The proposal also includes alterations to doors and windows at lower ground level of the dwelling. The Council does not object to these alterations, or to the rear extension, and I am satisfied that these elements of the proposal would not harm the character or appearance of the host building, terrace or area. The Council has raised concerns that screening to the terrace above the rear extension would result in excessive built form. However, screening is not part of the proposal before me, and given my findings on the first main issue that there would not be harmful overlooking from the terrace, I consider that provision of screening would not be necessary. The terrace would not be out of keeping with those to Nos 13 and 17, and I am satisfied that it would be suitably subservient to the dwelling.
15. For these reasons, I conclude that the proposal would not cause unacceptable harm to the character or appearance of the host building, terrace or area. In this respect, I find no conflict with Policies DC1 or DC4 of the Local Plan which require, amongst other things, a high standard of design, development that respects and enhances its townscape context and extensions and alterations that are compatible with the scale and character of existing development and that are subservient to and integrate successfully with the existing building.

Other Matters

16. Disturbance arising during construction of development would be short-term and could be managed by careful construction management with matters such as hours of work the subject of separate regulatory control. It would not therefore constitute reasonable justification for withholding planning

permission. Any damage caused to property during construction would be a private matter between the parties involved.

Conclusion

17. I have found that the rear extension at upper floor level would cause unacceptable harm to the living conditions of neighbouring occupiers. While the terrace above would not in itself be harmful, it would be provided on the roof of the rear extension. The proposal would create additional accommodation for the appellant and their family which the appellant indicates would allow them to live together and I note comments regarding their expectations on purchasing the property. However, I am mindful of advice within the Planning Practice Guidance that in general, planning is concerned with land use in the public interest. The development would also be likely to remain long after the current personal circumstances cease to be material. While I am sympathetic to the appellant's circumstances, I therefore find that these factors are not sufficient to outweigh the harm that I have identified.
18. Be that as it may, I have found that the additional floor at roof level and alterations to doors and windows at lower ground level would be acceptable. These parts of the proposal would be in accordance with the development plan when it is read as a whole, and there are no material considerations that indicate a decision on these aspects of the scheme should be made otherwise than in accordance with the development plan.
19. I have the power under s79(1)(b) of the Town and Country Planning Act 1990 to issue a split decision. In this case, the terrace to the roof of the extension would not be severable from the extension. However, it appears to me that the additional floor at roof level and alterations to doors and windows at lower ground level would be capable of being constructed and used independently of the proposed rear extension with terrace above. In these circumstances, I consider it would be appropriate to issue a split decision permitting the additional floor at roof level and alterations to doors and windows at lower ground level, but not the rear extension with terrace above.
20. In respect of the development to be permitted, I have imposed the standard time limit condition and a condition specifying the approved plans for the avoidance of doubt and in the interest of certainty. The Council has suggested a condition to require materials to external surfaces of the development to match the existing building, but noting that the existing roof is a flat surface, I consider it would be necessary to instead require that details of materials are submitted for approval to ensure a satisfactory appearance. A suggested condition to require screening to the terrace would not be relevant to the parts of the development to be permitted.
21. For the reasons given above, I conclude that the appeal should be allowed and permission granted for the additional floor at roof level and alterations to doors and windows at lower ground level. However, the appeal should be dismissed insofar as it relates to the erection of a rear extension at upper ground floor level and a terrace at first floor level to roof of upper ground floor extension.

J Bowyer

INSPECTOR