



Appeal Decision

Site visit made on 13 November 2023

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14.12.2023

Appeal Ref: APP/A5270/D/23/3324822

21 Chatsworth Gardens, Acton, Ealing W3 9LN

- 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 Dominic Rowles against the decision of the Council of the London Borough of Ealing.
 - The application Ref 231145HH dated 21 March 2023, was refused by notice dated 12 May 2023.
 - The development proposed is described as rear roof extension to rear outrigger gable roof and installation of one rooflight to front roofslope.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the submission of the appeal the National Planning Policy Framework (2021) has been superseded by the National Planning Policy Framework (2023) (the Framework). However, in relation to this appeal the aims of both sets of policies are similar. No party would be prejudiced or caused any injustice by me proceeding with the appeal in light of this change in policy.

Main Issue

3. The main issue in this appeal is the effect of the rear roof extension to rear outrigger gable roof on the living conditions of the occupiers of No. 23 Chatsworth Gardens.

Reasons

4. The site is a semi-detached property within a predominantly residential area. The proposed development would extend above the existing outrigger which currently has a pitched roof, the extension would project to the existing rear elevation of the outrigger similar to additions on neighbouring properties.
5. Windows/door exist in the rear elevation of the upper floor flats at No. 23 Chatsworth Gardens, which would be in close proximity to the rear roof extension. The appeal site lies to the south of No. 23. Whilst the existing outrigger already restricts outlook and light to a degree, the extension would be substantial and prominent to the occupiers of No. 23 from rooms served by these windows/door, restricting outlook and light further.
6. The rear roof terrace serving the first floor flat at No. 23, does not benefit from planning permission. Notwithstanding this the Council have confirmed that the

structure has been in existence for more than 4 years and as such would be immune from enforcement action, I give this significant weight. The Council have confirmed that the first floor flat does not benefit from any other private outdoor space.

7. I find that the rear roof extension to the existing rear outrigger due to its scale and proximity to No. 23 would result in a dominant built form which would be oppressive and create a sense of enclosure to the occupiers of the neighbouring building.
8. I conclude that the development would harm the living conditions of the occupiers of No. 23 Chatsworth Gardens. There is conflict Policy D3 of the London Plan (2021), and Policy 7B of the Ealing Development Management DPD (2013) which amongst other things, requires developments to respect the amenity of occupiers of neighbouring buildings and ensure good levels of daylight and sunlight.
9. There is conflict with the Framework which seeks to ensure developments have high standards of amenity for existing and future users.
10. The Council have referenced the emerging Ealing Local Plan (Reg 18) Policy DAA in the reason for refusal, policies in the emerging plan could be subject to further modification. Nonetheless I note that the policy is similar to that of the adopted development plan, as such the policy attracts some weight.

Other Matters

11. I understand that the appeal site benefits from a Certificate of Lawful Development¹ for 'Rear roof extension to rear outrigger; and installation of one rooflight to front roofslope'. The permitted development comprises a fallback position. Nonetheless whilst the permitted development proposes an extension to the rear outrigger, the scale of the development is less than the proposal before me. Whilst the fallback scheme would affect the living conditions of the occupiers of No. 23 this would not be to the same extent as the proposed development. I therefore give the fallback position limited weight.
12. The Appellant has drawn my attention to two developments granted approval for rear extensions. In terms of 24 Chatsworth Gardens² I note that the relationship between No. 24 and No. 26 is different to the proposal before me. No. 26 has a private rear garden most of which would not be affected by the development and there appears to be a gap between the properties. In the proposal before me No. 23 is split into flats, the first floor flat has limited outdoor amenity space and adjoins the appeal site. I do not find the referenced development comparable to the appeal before me.
13. With regard to No. 72 Chatsworth Gardens³ whilst plans and the officer report have been provided; without visiting the site I cannot compare the effect of that development on the neighbouring property. Nevertheless, each development must be considered on its individual merits, and I have reached my conclusion based on the individual merit of the appeal proposal.

Conclusion

¹ Ref: 231061CPL

² Ref: PP/2013/5370

³ Ref: 170134FUL

14. For the above reasons I conclude that this appeal should be dismissed.

C Pipe

INSPECTOR