



Appeal Decisions

Site visit made on 8 January 2024 by M Long BA(Hons) MSc MRTPI

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 May 2024

Appeal A – Ref: APP/H5390/D/23/3324142

88 Becklow Road, Hammersmith and Fulham, London W12 9HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Deborah and Andy Down against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref 2023/01090, dated 26 April 2023, was refused by notice dated 7 June 2023.
 - The development proposed is a single-storey side infill rear extension with glazed lean-to roof to replace existing glazed single-storey extension.
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Appeal B – Ref: APP/H5390/D/23/3324115

88 Becklow Road, Hammersmith and Fulham, London W12 9HJ

- 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 Deborah and Andy Down against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref 2022/03455/FUL, dated 24 November 2022, was refused by notice dated 23 March 2023.
 - The development proposed is the demolition of existing single-storey rear infill extension and construction of new single-storey rear infill extension and installation of new glazed screen.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is allowed and planning permission is granted for the demolition of existing single-storey rear infill extension and construction of new single-storey rear infill extension and installation of new glazed screen at 88 Becklow Road, Hammersmith and Fulham, London W12 9HJ in accordance with the terms of the application, Ref 2022/03455/FUL, dated 24 November 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.

- 2) The development hereby permitted shall be carried out in accordance with the approved plans: 200, 201 A, 202 B, 203 D, 204 A, 205 C, 206 A.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Appeal Procedure

3. The site visit was undertaken by a representative of the Inspector whose recommendations are set out below and to which the Inspector has had regard before deciding the appeals.

Application for Costs

4. Applications for costs in respect of both appeals were made by Deborah and Andy Down against the Council of the London Borough of Hammersmith and Fulham. These applications are the subject of separate decisions.

Procedural Matters

5. The Government published on 19 December 2023 a revised version of the National Planning Policy Framework (Framework). Whilst I have had regard to the revised national policy as a material consideration, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.
6. There are two appeals on this site. Appeal A seeks consent under Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), which grants planning permission for the enlargement of a dwellinghouse subject to limitations and conditions. Appeal B seeks planning permission for the same development. I have considered each appeal on its individual merits. However, to avoid duplication, I have dealt with the two schemes in a single report.

Main Issues

7. For Appeal A, the main issue is whether the proposal would be granted planning permission by Article 3(1) and Schedule 2, Part 1, Class A of the GPDO.
8. For Appeal B, the main issue is the effect of the proposed development on the living conditions of the residents at 90 Becklow Road with particular regard to outlook and light.

Reasons for the Recommendation

9. The appeal site is a mid-terraced dwelling with a two-storey outrigger. It has an existing single-storey infill extension positioned against the shared boundary with No 90. The proposals seek to replace this single-storey extension with a larger extension. Submitted drawings also show the addition of French doors to the rear elevation of the outrigger, however the appellant has made it clear

these do not form part of the appeal schemes and so they are not a matter for my consideration.

Appeal A

10. Paragraph A.4(3) of the GPDO makes it clear that the local planning authority may refuse an application where, in the opinion of the authority, (a) the proposed development does not comply with, or (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, the conditions, limitations or restrictions applicable to development permitted by Class A which exceeds the limits in Paragraph A.1(f) but is allowed by Paragraph A.1(g).
11. Paragraph A.3(a) of Schedule 2, Part 1, Class A of the GPDO sets out that development is permitted by Class A subject to the condition that the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of similar appearance to those used in the exterior of the existing dwellinghouse. There is no dispute between the parties that the proposal complies with the other conditions and limitations of Class A.
12. The Technical Guidance¹ (TG) explains this condition is intended to ensure any works to the house result in an appearance that minimises visual impact and is sympathetic to existing development. The TG sets out the materials used should be of a similar visual appearance to those in the existing house, but they do not need to be the same. With regard to windows, the TG advises it is important that they give a similar visual appearance to those in the existing house, for example, in terms of their overall shape, and the colour and size of the frames.
13. The proposed extension would use aluminium framed windows whereas the existing dwelling has some white uPVC windows, some timber framed and some aluminium framing in the glazed roof of the existing extension.
14. While the materials of the new windows could, in principle, have a similar appearance to those on the existing dwelling, having regard to the TG it is clear that this would depend on a number of factors. Other than the elevation drawings, I have very little information or details of the windows including their colour, frame size or profile, which is necessary to establish the similarity, or otherwise, of their appearance. Therefore, the appellant has provided insufficient information for me to establish whether the proposal complies with conditions A.3.(a). Therefore, I recommend that the appeal be dismissed on the basis that it has not been demonstrated that the development is permitted by Class A.

Appeal B

15. No 90 has a two-storey outrigger that is set back from the shared boundary with the appeal site. There is a north-facing window at the ground floor on the rear elevation of the main house, in the narrow space between the outrigger and the shared boundary. There is also a ground floor window in the side elevation of the outrigger which faces directly onto the site. The existing extension is relatively low and does not extend far to the rear, but nonetheless already limits the outlook from, and light to, these windows.

¹ Ministry of Housing, Communities & Local Government: Permitted development rights for householders, Technical Guidance (September 2019).

16. The proposed extension would be significantly larger than the existing infill extension. Its additional height and depth would harmfully reduce the level of outlook available to the ground floor windows of No 90. From the rear window there would be a tunnelling effect that would result in an undue sense of enclosure for the occupiers of the property. Due to the proximity of the side elevation window to the proposed tall boundary wall, the scheme would further reduce its already limited outlook.
17. There would therefore be conflict with the Key Principle HS7 of the Hammersmith & Fulham Planning Guidance Supplementary Planning Document (February 2018) which states any proposed rear extension should not worsen the outlook from any rear habitable room window located lower than the proposed extension.
18. Given the orientation of the rear window of No 90, the presence of two storey outriggers on both properties and the narrowness of the space between the shared boundary and side elevation window, the light available to the ground floor windows at No 90 is already limited. The scale of the proposed scheme would be significantly less than that of the outriggers, therefore it would not result in a harmful further reduction of light available to the affected rooms.
19. Overall, the proposed scheme would harm the living conditions of the neighbouring residents at No 90 with regard to outlook but not light. As such, it would be contrary to the Hammersmith and Fulham Local Plan, adopted February 2018, specifically Policy HO11 which considers proposals for extensions to be acceptable where it can be demonstrated that there is no detrimental impact on the outlook from windows in adjoining properties.
20. Nevertheless, the only issue for Appeal A is related to clarity over the materials details. There is no substantive evidence before me to indicate that the dimensions of the extension would conflict with the requirements set out in the GPDO. Given that only minor changes or further details of the materials could be needed for a successful application under Class A, there is a real prospect that an identical scheme could be implemented at the site. Consequently, while the proposal would have a harmful effect on the outlook and living conditions for No 90, the fallback option under permitted development rights would result in the same harm.
21. While I afford the harm and resulting conflict with Policy HO11 very substantial weight, I regard the likely implementation of the fallback option as a very significant material consideration to which I attach great weight. It would, in this case, justify making a decision which is not in accordance with the development plan.

Conditions

22. In addition to the standard time period for commencement and requiring that the development be carried out in accordance with the approved plans, which is necessary for certainty, I recommend that matching external materials are used to safeguard the character and appearance of the dwelling.

Conclusions and Recommendations

23. With regard to Appeal A, I recommend that the appeal should be dismissed.

24. With regard to Appeal B, the scheme would not accord with the development plan when considered as a whole. However, the fallback option is a material consideration which would, in this case, justify making a decision that is not in accordance with the development plan.

M Long

APPEAL PLANNING OFFICER

Inspector's Decisions

25. I have considered all the submitted evidence and my representative's recommendation and I agree with the reasoning and recommendations. On that basis Appeal A is dismissed.
26. Although there would be harm and conflict with the development plan, in this case the likelihood of the appellant using permitted development rights to build the same extension is a material consideration of sufficient weight to justify granting planning permission, therefore Appeal B is allowed subject to the conditions listed above.

L McKay

INSPECTOR