



Appeal Decision

Site visit made on 9 April 2024

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 04 July 2024

Appeal Ref: APP/H5390/D/24/3336739

46 Kingwood Road, London, SW6 6SR

- 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 K Harvey against the decision of Hammersmith and Fulham London Borough Council.
 - The application Ref 2023/00265/FUL, dated 3 February 2023, was refused by notice dated 27 October 2023.
 - The development proposed is the erection of a two-storey extension to the rear of the existing back addition; erection of a single storey extension to the side and rear of the back addition following the demolition of existing shed; alterations to the rear elevation of existing rear roof extension to include installation of a new window following removal of existing windows; and removal of existing window and installation of a new window to the rear of the first floor back addition (part retrospective).
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 23 April 2024.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a two-storey extension to the rear of the existing back addition; erection of a single storey extension to the side and rear of the back addition following the demolition of existing shed; alterations to the rear elevation of existing rear roof extension to include installation of a new window following removal of existing windows; and removal of existing window and installation of a new window to the rear of the first floor back addition, at 46 Kingwood Road, London, SW6 6SR in accordance with the terms of the application, Ref 2023/00265/FUL, dated 3 February 2023, and the plans submitted with it, subject to the following condition:
 - 1) The development hereby permitted shall not be occupied until the new window to the rear elevation of the extension at first floor level has been installed fixed shut with obscure glazing below the level of 1.7 meters, a sample of which shall have been submitted to and approved in writing by the Local Planning Authority prior to its installation. In the event that the property has now been occupied, the sample shall be submitted within a month of this decision and shall be installed by a date specified in the Local Planning Authority's approval of the sample. Thereafter the window shall be retained in the form approved.

Preliminary matters

2. The application form described the proposed development as “single storey side, rear and loft extensions to a terraced property as a single family dwelling”. The council changed this to the description used in the heading above, as did the appeal form. I have adopted it as it more clearly identifies the development proposed.

Main Issues

3. The council does not consider that the alterations to the windows to the rear roof extension and the enlarged and repositioned openings appear out of character in the context of the varied fenestration of the wider terrace, and do not significantly alter the character of appearance of the property. Similarly, the repositioning and replacement of the first-floor window to the rear of the back addition is not considered to be unacceptable with regard to design or visual impact.
4. Thus the main issues in this case are i) The effect of the proposal in terms of overlooking and loss of privacy on the opposing terrace on Allestree Road; and ii) The effect of the proposal rear extensions on the character and appearance of the appeal property and its neighbours.

Reasons

5. The appeal site is a 2-storey Victorian mid-terrace house located on the northern side of Kingwood Road. The rear of the property faces north across the rear garden towards the backs of terraced houses fronting Allestree Road, with these 2 terraces being closely spaced.

The effect of the proposal in terms of overlooking and loss of privacy on the opposing terrace on Allestree Road.

6. The most relevant Local Plan 2018 policies referred to are expanded on in more detail in the Planning Guidance Supplementary Planning Document of February 2018. In respect of this issue, ‘Key Principle – HS7 Residential Development – windows and outlook’, at item iii) states *“Any new window should be positioned at least 18 metres from existing habitable room windows. This will be measured by an arc of 60 degrees taken from the centre of the proposed new windows to ensure there is no loss of privacy. If this standard cannot be met then windows should be designed to ensure that no loss of privacy will occur”*.
7. In this case, since the parallel terraces are closely spaced, the 18m separation is not available. However, the final sentence of item iii), set out above, makes provision, where this occurs, that the design of the window should be such that it ensures that no loss of privacy will occur. I note that the very similar situation on an approved scheme at No.44 Kingwood Road, where a new window at first floor level in the rear extension was proposed to be obscure glazed and fixed shut to a height of 1.7m above internal floor level, and this was secured by a condition. The appellant indicates that such a condition would be acceptable. This does not appear to have been considered by the council, but would satisfy the situation arising in this case and the terms of the policies.

The effect of the proposal rear extensions on the character and appearance of the appeal property and its neighbours.

8. In respect of this issue, from what I could see at my site visit, the rear of the terrace of which the appeal property is a part, has seen a number of additions and alterations. This means that there is no consistent character and appearance to the rear elevation of the terrace, certainly not with those houses neighbouring the appeal dwelling; the rear of No.44 has a very similar scheme that was permitted and built. The degree of consistency between the appeal scheme and that at No.44 means that the appeal development would not be a harmful, alien feature which would appear incongruous and would harm the character and appearance of the property and the terrace.
9. I note that the planning officer's report seeks to differentiate the appraisal of the No.44 development from that now proposed at the appeal site, No.46, by stating that planning policy has changed between the local plan of 2013 and the current local plan of 2018. This is not borne out by the comparison of the policies of the 2 documents given in the appellant's appeal statement. I have decided that the appeal development would not harm the character and appearance of the appeal property and its neighbours.

Conclusions

10. Having taken account of all matters raised, and for the reasons that I have set out above, the appeal will be allowed.

Conditions

11. Since the appeal proposal is largely retrospective, the statutory condition that provides a time limit on the start of development is not appropriate. The only condition that the council suggests, in the event of the appeal succeeding, is that the development shall be carried out in accordance with the approved plans. This can be incorporated into the terms of the permission. However, for the reasons given in paragraph 8 above, the condition I have mentioned must be imposed. At the time of my visit it appeared that the property was not occupied during the course of the alterations, so that the condition could be expressed in terms of "before the property is first occupied ...". However, the condition can be framed to also deal with the situation that the property is now occupied, and that is how I will proceed.

Terrence Kemmann-Lane

INSPECTOR