



Appeal Decision

Site visit made on 11 September 2023

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2023

Appeal Ref: APP/X5210/D/23/3321464

4 Oakford Road, London NW5 1AH

- 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 and Mrs Fiona and Jon McGuire and Duncan against the decision of the London Borough of Camden.
 - The application Ref 2021/0315/P, dated 22 January 2021, was refused by notice dated 5 April 2023.
 - The development proposed is erection of single storey rear infill extension, including conversion of the loft space into a habitable room with a rear roof dormer extension.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of single storey rear infill extension, including alteration to the roof of the rear outrigger and conversion of the loft space into a habitable room with a rear roof dormer extension, at 4 Oakford Road, London NW5 1AH in accordance with the terms of the application, 2021/0315/P dated 22 January 2021 and the plans submitted with it.

Procedural Matters and Main Issue

2. In September 2023 the Government published a revised National Planning Policy Framework (the Framework). The revisions relate to national planning policy for onshore wind development rather than anything relevant to the main issues in this appeal. Consequently, further comments have not been invited.
3. The description of development in the banner heading above is taken from the planning application form, as there is no evidence before me that the appellant agreed to the description contained on the Council's decision notice. Although not specified in the description, the development includes alterations to the roof of the rear outrigger. It is shown on the submitted plans and from the evidence before me, has been considered by all parties during the application stage. As such, I have considered this element as part of the overall scheme and included it in my decision above, given that no party would be prejudiced. Since the development has been carried out, retrospective permission has been sought. In reaching my decision, I have assessed the development as shown on the submitted plans and not as built on site.
4. I note that the Council's officer report recommended that an Enforcement Notice be issued in relation to the rear dormer window and works to the rear outrigger roof. Whether or not such a notice has been served, this has no bearing on the s78 appeal before me.
5. The Council does not object to the ground floor rear infill extension. Based on all that I have seen and read I see no reason to disagree. The main issue in

relation to this appeal is therefore the effect of the rear dormer window and works to the outrigger roof, upon the character and appearance of the area.

Reasons

6. The appeal site comprises a Victorian mid-terrace dwelling located in a predominantly residential area. It has attractive architectural detailing to the front elevation including a raised entrance doorway, bay windows to the lower floors, contrasting brick string coursing and pitched roofs. The appeal site contributes positively to the pleasant street scene which consists of similarly designed properties.
7. Policy D1 of the Camden Local Plan (CLP) 2017 sets out the design principles for new development including that it respects local context and character. This is expanded upon in Policy D3 of the Kentish Town Neighbourhood Plan (KTNP) 2016 which requires development to draw upon key aspects of character or design cues from the surrounding area including building form, scale, architectural detailing and materials, amongst other things.
8. Further specific guidance in relation to roof additions is contained within the Camden Planning Guidance (CPG) on 'Design' and 'Home Improvements' 2021. With regard to dormer windows the Home Improvements CPG advises that they should be subordinate in size to the roof being extended, the proportion of glazing should be greater than the solid areas and dormer cheeks should be of a high-quality design and materials. The dormer does not meet all of the criteria of this CPG as acknowledged by the appellant. However, this is guidance, and it is important to look at the specific context of the appeal site.
9. The dormer window is a large box-like structure, of considerable bulk with little of the original rear roof slope apparent. Nevertheless, it is imperceptible from the street scene of Oakford Road. Whilst visible from a number of other properties to the rear, these are in the main private views. In such views, the dormer window would not look particularly strident or out of place despite its scale and form. Although other nearby dormers of varying designs and scales have been constructed without planning permission, they form part of the character of the area and the context in which the appeal site is seen.
10. Moreover, there are points of mitigation in the design including that the cladding is a dark material that integrates with the colour of the nearby slate roofs, the brickwork matches that in the host dwelling and the windows roughly align with those in the main rear elevation. Due to the lack of public visibility and the quality of the construction, the harm exerted would be limited.
11. The roof of the rear outrigger has been altered from a mono-pitch to a flat roof, to create additional head height internally. This outrigger is a narrow, standalone structure serving only the appeal dwelling. In this regard, it differs from those nearby which are generally shared by 2 properties. The alteration is very minor in nature and has been constructed in matching materials that will weather over time. The flat roof helps to bring some overall cohesiveness to the rear elevation of the appeal site, in the context of the heavily altered and less uniform rear elevations within the terrace.
12. Whilst the alteration to the rear outrigger would not be harmful, the dormer window has a limited but adverse effect on the character and appearance of the area. It therefore conflicts with Policies D1 of the CLP and D3 of the KTLN and fails to comply with the Home Improvements CPG, as set out above.

Other Matters

13. The appellant suggests that a dormer window of a similar scale and bulk could be erected at the appeal site under permitted development (PD) rights, but with different facing materials. The Council has acknowledged that other dormer windows have been constructed nearby under PD rights, and there is no evidence before me to demonstrate that such rights are not afforded to the appeal site. Should the appeal be unsuccessful the materials of the dormer would be amended to match the roof. Whilst there is no certificate of proposed lawful development before me, I attach considerable weight to the realistic prospect of this fallback position being implemented, given the benefit that the dormer window has provided to the appellant in increasing the size of habitable living space. The limited harm therefore relates to the materials used, which I have found are consistent with the host dwelling or the colour of the slate roofs.

Planning Balance

14. I have found that whilst the alteration to the outrigger roof would not adversely affect the character and appearance of the area, the rear dormer window would result in limited harm. This would result in minor conflict with the development plan. Balanced against this, is the fallback position of a slightly modified dormer being constructed under PD rights. Planning law dictates that applications must be determined in accordance with the development plan, unless material considerations indicate otherwise. Potential fallback positions can represent such material considerations.

15. In this instance, the development is very similar to the fallback position. Consequently, the fallback position carries considerable weight in the planning balance, sufficient to outweigh the minor conflict with the development plan.

Conditions

16. The Council has suggested conditions relating to the construction of the development in accordance with the submitted plans and in matching materials. Such conditions are not necessary as the development is complete.
17. Concern is raised that the flat roof of the outrigger could be used as a terrace giving rise to noise and disturbance to adjacent occupiers. However, access to the roof would have to be gained from the existing second floor window behind. I observed that this is a high-level window above the stairwell, such that it would be extremely difficult to access it from inside the property without a significant alteration to the location of the staircase throughout the dwelling. The dwelling also benefits from a sizeable and private rear garden. A condition to prevent the use of the roof as a terrace would therefore be unreasonable.
18. The appeal questionnaire suggests that a condition should be attached as per section 7.0 of the officer report. However, this section does not refer to a condition. The materials of the development are considered satisfactory such that any conditions relating to this matter would not be reasonable.

Conclusion

19. The existence of the fallback position is a material consideration that leads me to determine this appeal other than in accordance with the development plan. For the above reasons, the appeal is allowed.

M Clowes - INSPECTOR