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# Appeal Decision

Site visit made on 15 October 2012

**by Peter J Golder Dip TP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 12 November 2012**

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**Appeal Ref: APP/X5210/A/12/2173868**  
**52 Ainger Road, London NW3 3AH**

- 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 Ulrich Gerza against the decision of the Council of the London Borough of Camden.
  - The application Ref 2011/2831/P, dated 1 June 2011, was refused by notice dated 21 October 2011.
  - The development proposed is change of use to form single dwelling house, infill of side return, first floor level rear extension and mansard roof extension.
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## Decision

1. The appeal is allowed and planning permission granted for change of use to form single dwelling house, infill of side return, first floor level rear extension and mansard roof extension at 52 Ainger Road, London NW3 3AH in accordance with the terms of the application, Ref 2011/2831/P, dated 1 June 2011, subject to the conditions set out in the attached schedule.

## Application for costs

2. An application for costs was made by Mr Ulrich Gerza against the Council. This application is the subject of a separate Decision.

## Background

3. Following the refusal of permission for the appeal proposal a subsequent and materially similar application was submitted which excluded the single storey rear extension at lower ground floor level. This application was approved in January 2012. Of particular significance to the matters at issue in this appeal, the approved scheme included the conversion of two former units to a single dwelling, rear extensions, mansard roof extension and other alterations to the rear, all largely as included in the appeal scheme. At the time of my visit the approved works, in as much as they affect the external appearance of the rear of the building, were nearing completion.

## Main Issues

4. The above circumstances focus the concerns in this appeal upon the effects of the proposed single storey extension at lower-ground floor level. Therefore the main issues in this appeal are firstly the impact of the extension upon the appearance of the building and the terrace of which it is part and secondly the effects upon the living conditions of neighbouring occupiers at 51 Ainger Road.

## **Reasons**

### *Appearance*

5. Rear extensions, balconies and terraces of a variety of shapes, sizes and designs are common on the rear elevations of the 3/4 storey houses in this stretch of Ainger Road and in indeed within the wider area.
6. Reason for refusal No 2 is framed in terms of the cumulative impact of the rear extensions comprised in the appeal proposal. In part considerations here have been overtaken by subsequent events. As two of those extensions have since been permitted and constructed they, along with longer standing additions to the rear of the property, now provide the context within which the lower ground floor addition should be judged. The matter to be addressed within this issue is whether the addition of the proposed lower ground floor extension to what has gone before would result in a harmful and over-dominate combined building mass detrimental to the original building.
7. Collectively extensions to the rear, both longer standing and more recent, add a significant degree of physical and visual mass to the property. In large measure they are open to view from the surrounding dwellings and their rear garden areas. The Council clearly regard the present circumstances to be acceptable and I would not take issue with that view.
8. The proposed lower ground floor addition would be far less prominent than the changes which have taken place. It would sit at a low level, be enclosed by the wall along the common boundary with No 51 and the existing two-storey outshoot from which it would have a small, but visually significant set back, and be virtually fully glazed on the elevation presented to the garden. Further it would be noticeably narrower than, and subordinate to, the existing two-storey addition which it adjoins. These features would result in a well designed addition which would both appear discrete and be largely obscured from view from the wider surrounding area. From a few properties closer and higher level views of the roof would be possible but even so, as with more general views, the addition would not be seen to any material degree in concert with the more prominent additions on the upper levels.
9. Consequently I regard the proposed addition very much as a subservient feature which would add little if anything cumulatively to either the physical or visual mass of the western elevation when seen within its overall context. Certainly any impact would not be to such an extent that it would result in the combined effects of changes to the rear of the property being over-dominant or causing any other material harm to the appearance of either No 52 or the wider terrace. The Council acknowledges that the principle of infilling with a full width extension as proposed seems reasonable; in this instance, because of the particular circumstances, I also regard it as acceptable in practice in terms of it's consequence for the appearance of the building and its wider context.

### *Living Conditions*

10. The concerns of the Council, and as elaborated upon by the occupiers of No 51, fall into two broad heads. Firstly the impact upon outlook and sense of enclosure from within the house and its garden and secondly, the prospect of light pollution from the proposed roof light in the roof of the lower ground floor extension. I take these matters in turn.

11. The common boundary between Nos 51 and 52 comprises a brick wall. This is currently being rebuilt under a Party Wall agreement. I note the concerns expressed by the occupiers of No 51 about this work but it is not a matter before me within the context of this appeal under section 78 of the Act.
12. The wall varies in height, as do the ground levels on either side and the garden levels at No 51. The construction of the proposed extension would involve raising the height of the lower section of the wall from 1140mm to 1940mm (when measured in the garden of No 51) so that its height matched that of the existing wall closest to the house; this section of wall sitting in the lowest part of the garden has a height of 2990mm and length of 3200mm. The additional heightened length of wall would run for 2770mm. The proposed extension would not project above or beyond the height and length of the altered wall. It extend to just under 6000mm from the rear elevation of the house.
13. Within the immediate context of Ainger Road, King Henry's Road and Oppidans Road, the garden at No 51 is modest in size compared with most around. However it is one which clearly benefits from the larger gardens and their significant mature wooded nature to the west. My perception was of a garden with a pleasant open aspect and one, notwithstanding the existing and more recent works at No 52, which did not feel unduly physically or visually enclosed, either when in the garden itself or when in the full length kitchen/dining area on the lower ground floor.
14. Given these circumstances I am not persuaded that additional area of common boundary wall which would be presented to the garden of No 51 would materially add to any sense of enclosure or oppressiveness or erode the degree of openness presently enjoyed to an unacceptable extent. It would be closely juxtaposed with and seen against the backdrop of the existing extensions at No 52 and not intrude unduly into those parts of the garden which derive the greatest benefit from the open areas beyond. The enclosed nature of the lower garden and its sitting area would be substantially unaffected as would views from the kitchen. Likewise the principle merits of the upper garden in terms of its open amenity value and outlook would not be unacceptably diminished.
15. From the habitable rooms at the rear of the house I saw that the roof of the proposed extension would be visible. Views would be oblique and only possible from a limited portion of each room on each floor. While the aspect would change I do not consider that it would do so to the extent that the awareness of the flat roof would compound the degree of enclosure that is already presented by the existing form of No 52. From any of these rooms, including the stairway, the extension would not obstruct or curtail views. The principal focus of views down the garden to the open and treed areas beyond would not be affected. It becomes a matter of fine judgement as to whether the ability to see the roof of the proposed extension would erode the quality of the outlook from the rear of No 51. However it would be likely to impinge so marginally upon those features of importance to the quality of that outlook that the ability to see it from No 51 is not a detailed aspect of the scheme which tells against it to any material extent.
16. The Council's planning policy documents recognise that given Camden's dense character light spillage from developments such as conservatories and the like can adversely affect the living conditions of neighbours. In any residential area light spillage from windows and other glazed areas is inevitable to a greater or lesser degree. The evidence in this instance is that in the area enclosed by the

three roads, pollution from light spillage is at a relatively low level. I have no reason to doubt that this is so.

17. The roof light proposed here measures 4m by 1.5m. I can understand that it would substantially increase the amount of natural light available to the kitchen but at the same time brings with it the prospect of light spilling upward towards the windows at No 51 which are in reasonable close proximity. I agree with the Council that this raises the prospect of the amenity of the occupiers being eroded. I also agree that the low level of light pollution in the vicinity could intensify those effects.
18. However, the prospect of light pollution needs to be considered in the context of other nearby potential sources of spillage. Immediately about the flat roof of the proposed extension is a large window serving a living room. Also above the flat roof and facing towards No 51 is a study window. The approved scheme provides for a series of glazed doors facing onto the present void where the extension is proposed. Taken together these factors point to the prospect of the area where Nos 51 and 52 join already being reasonably well illuminated from internal light sources.
19. The likely effects of the proposed roof light need to be balanced against these circumstances and the energy efficiency benefits of allowing as much natural light to the kitchen as is reasonable. Illumination of the void would be replaced by potential light spillage from the roof light. Given these considerations I do not consider there to be a compelling case for concluding that, in principle, the roof light is an unacceptable feature of the extension. However it is equally important to ensure that the roof light does not materially and unacceptably increase the degree of light pollution in the area generally and for the occupiers of No 51 in particular. I am satisfied that this is a matter of balance which can be dealt by a condition which requires the Council's approval to details of the roof light in terms of the nature of obscure glazing and measures to control light absorption and deflection. With such a condition in place I consider light pollution could be kept to an acceptable level and the quality of the living conditions of those at No 51 adequately protected.

## **Conclusions**

20. For the above reasons I conclude that the appeal proposal would not have a detrimental impact upon the appearance of No 52 or the terrace of which it is part. I also conclude that it would not have a materially adverse impact on living conditions of the occupiers at No 51. Consequently I do not find that the proposal would conflict with the relevant provisions of policies CS5 and CS14 of the Camden Core Strategy 2010 and policies DP26 and DP24 of the Camden Development Policies 2010. In as much as these policies relate to the matters at issue in this appeal they are consistent with the core principles of the National Planning Policy Framework, in particular those which seek to secure high quality design and ensure a good standard of amenity for existing and future occupiers.
21. In reaching my conclusions I have had regard to all other matters raised in the representations made, including those in respect of other properties in the locality. Some of these I saw during my visit but I consider the circumstances of this appeal require it to be determined essentially on the specific and detailed merits of the development proposal before me. Having taken all of these matters into account I find nothing sufficiently compelling to lead me to

any other view than that this appeal should be allowed and planning permission granted.

### **Conditions**

22. As stated at the outset my determination of this appeal has focussed on the merits of the lower ground floor extension. However the planning application is for the composite scheme; large parts of which have been granted permission under ref.2011/5746/P. For the sake of completeness the conditions which I have imposed relate to all of the elements of the appeal scheme unless superseded by the provisions of permission 2011/5746/P.
23. The Council have suggested 5 conditions in the event of the appeal being allowed; the first being the standard time condition. I agree that a condition is required in respect of external materials to ensure that the appearance of the building is safeguarded. In the interests of good planning and for the avoidance of doubt I impose a condition requiring development to be carried out in accordance with the approved plans. To safeguard the appearance of the building and the amenity of neighbours, details of metal railings and privacy screens and obscure glazing require prior approval. As discussed above I have imposed a separate condition requiring approval of the details of the roof light in the lower ground floor extension. Finally to prevent the overlooking of neighbouring premises a condition is required to prevent access to the roof extensions for purposes other than maintenance.

*Peter J Golder*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Unless otherwise required by other conditions of this permission or those imposed on planning permission reference 2011/5746/P dated 5 January 2012, the development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos: GA20-00; DM20-01; DM20-02; DM20-03; DM20-04; DM20-05; DM21-AA; DM21-BB; DM21-CC; DM21-DD; GA20-01revG; GA20-02revG; GA20-03revE; GA20-04revE; GA20-05revE; GA20-06revE; GA21-AArevE; GA21-BBrevF; GA21CCrevD; GA21-DDrevE and unnumbered drawing (dated 26 August 2011) showing existing and proposed boundary wall.
- 3) Unless otherwise required by the provisions of condition No 2 the materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
- 4) Before the relevant parts of the work is begun details of (a) all new railings, including materials, finish and method of fixing, (b) the privacy screen on the northern elevation of the upper ground floor balcony and (c) the obscure glazing to be used in the roof light on the first floor extension and the glass panels on the rear façade of the upper ground floor rear extension, shall be submitted to and approved in writing by the local planning authority. The works shall be completed in accordance with the approved details prior to the first occupation of the hereby permitted dwelling.
- 5) Prior to the commencement of the construction of the lower ground floor extension details of the obscure glazing of the roof light and measures to be taken to deflect, absorb and otherwise control the amount of upward artificial light emitting from the roof light shall be submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details prior to the first occupation of the hereby permitted dwelling and thereafter retained in that form.
- 6) The roof areas serving the lower ground floor, upper ground floor and first floor extensions hereby permitted shall not be used as a balcony, roof garden or similar amenity area without the grant of further specific permission from the local planning authority and shall be accessed for maintenance purposes only.