
Appeal Decision

Site visit made on 18 February 2016

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 23 February 2016

Appeal Ref: APP/X5210/C/15/3131675

Flat 3, 198 Kilburn High Road, London NW6 4JD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr D Patel against an enforcement notice issued by the London Borough of Camden.
 - The Council's reference is EN14/1242.
 - The notice was issued on 23 June 2015.
 - The breach of planning control as alleged in the notice is: the unauthorised enlargement of an existing extension at second floor level.
 - The requirements of the notice are to: Remove the unauthorised extension located at second floor level as shown on the existing elevation, existing section and existing plan on drawing number 150202-01-P0 and reinstate in accordance with pre-existing elevation, pre-existing section and pre-existing plan on drawing number 150202-01-P0.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on grounds (a) and (g) as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed and the enforcement notice is quashed (see formal decision below).

Background information and relevant policies

2. The three storey appeal building is located on the east side of Kilburn Road and the ground floor is currently in use as a retail unit for a charity organisation (PDSA). The upper floors include the appeal flat 3 which, according to the Appellant, has been in use as a two-bedroomed flat since before 1998 and has been rented out as such since that date. The building lies within a terrace of similar properties along his part of Kilburn High Road. Most have retail uses to the ground floor with living accommodation over.

3. The works subject to the notice relate to a rear extension at the second floor level. This has been built out from an existing rear extension (approved some time ago) and sits above another existing ground and first floor approved extension. It has been built upon a former roof terrace. The appeal structure is built of brickwork which is of a similar overall colour as the existing brickwork but does not quite match the rest of the extensions as built. It measures 2.7m in height by 2.3m in depth and is 6.4m wide and there is a narrow balcony about 1m wide. It houses two bedrooms and there are French Doors to one of the bedrooms. The north-east elevation is painted white and the doors and windows are white UPVC.

4. Although a retrospective application for its retention was submitted, there is no approval in place. Prior to the application being made the Applicant had been informed that planning permission would not be granted for the scheme.

5. The most relevant development plan policies comprise policy 7.4 of the London Plan 2015 (LP); the Council's Core Strategy (CS) policies CS1 (Distribution of Growth); CS5 (Managing the impact of growth and development) and CS14 (Promoting high quality places and conserving our heritage); the LDF Development Plan (DP) policies DP24 (Securing high quality design) and DP26 (Managing the impact of development on occupiers and neighbours). Camden Planning Guidance Design Guidance 2013 at CPG 1 (chapter 5), CPG2 (chapter 4) and CPG6 (chapters 6 & 7) is also relevant

6. I have also considered relevant policies of the National Planning Policy Framework (NPPF). In particular I have considered those policies relating to the requirement for good design in section 7 and the fact that the NPPF sets out a presumption in favour of sustainable development. I have also taken into account relevant Planning Practice Guidance (PPG).

The Appeal on ground (a)

The main issue

7. The main issue is the effect of the second floor level extension on the character and appearance of this part of the Borough.

The cases of the parties and others

8. The Council contends that by reason of its height, size and location, the extension is an overly large and dominant feature on the host building and that it is clearly visible from street level and the wider public realm. It is considered to detract from the character and appearance of the host building and the existing street scene and that it is contrary to policies CS14 (CS) and to policy DP24 (DP).

9. On behalf of the Appellant it is contended that the extension accords with the relevant development plan policies of the CS and the DP, as well as with LP policies 3.8, 7.4 and 7.6. It is further contended that the scheme constitutes sustainable development and that it is in accordance with the policies of the National Planning Policy Framework (NPPF). In this respect paragraphs 1, 2, 6, 7, 11, 12, 14, 56, 64, 186, 187 and 207 are referred to in support of the development as carried out.

10. It is argued that the design of the extension has been sensitively considered using quality materials and that the simple design retains the integrity of the host building. It is considered that the flat-roof design is in keeping with the architectural vernacular of similar extensions in the locality and that the design complements the character and appearance of the streetscene. The matching brickwork and other materials are referred to and it is contended that the development is congruent with existing development in the area.

11. There are several letters from residents in adjacent flats, all of whom are in favour of the retention of the extension as built. These letters of support refer, amongst other things, to the significant and harmful effect that the previous use of second floor balcony had had on their living conditions. In particular they refer to noise and disturbance and overlooking issues.

Assessment and reasons

12. Having seen the extension from both near and distant viewpoints, I do not share the Council's concerns about the impact that this particular extension has had on the character and appearance of the area. Whilst accepting that it is large and noticeable, I do not consider that it is overlarge when seen in the context of the bulk and massing of the works which have been granted consent.

13. In three-dimensional terms I consider that the extension is perceived as a logical addition at second floor level. It continues the stepping back of the ground and first floor structure and in my view is not obtrusive or bulky. I acknowledge that the brickwork does not match as well as it might but, in time, this will weather and should take on an appearance more akin with the existing brickwork. At least some attempt has been made to match the brickwork, unlike in other parts of the terrace where most unsympathetic brickwork alterations have been carried out.

14. Overall the design is simple and the window and door components match those which exist on the host building, as well as those on other nearby buildings. The white painted front wall also matches other similar finished walls in the vicinity and the flat roof is typical of other nearby additions to similar properties.

15. I consider that the extension accords with the relevant development plan policies set out above as well as with the NPPF policy which requires good design. With regard to Camden's Planning Guidance I consider that this additional storey is an established form of addition and roof alteration which is compatible with its surroundings. I also find the form to be architecturally sympathetic to the age and character of the building, particularly having regard to the already approved works.

16. Having stood on the balcony I do not consider that there are any significant issues relating to loss of privacy or overlooking and neither does this element of the works have any overbearing effect for any of the occupants of neighbouring properties. The fact that the immediate neighbours consider that the scheme has significantly improved their living conditions reinforces my view that this particular extension ought to be allowed to remain in place. The appeal succeeds on ground (a) and ground (g) does not, therefore, fall to be considered.

Other Matters

17. In reaching my conclusions above, I have taken into account all of the other matters raised on behalf of the Appellant, by the Council and by others. These include the planning history; the full details of the Council's statement; the detailed grounds of appeal; the photographic evidence; the Council's delegated report; the Appellant's comments on the Council statement and the representations by the interested persons.

18. However none of these carries sufficient weight to alter my conclusions as set out above and nor is any other factor of such significance so as to change my decision that the appeal should succeed.

Formal Decision

19. The appeal is allowed and I direct that the enforcement notice be quashed. Planning permission is granted for the retention of the enlargement of an existing extension at second floor level at Flat 3, 198 Kilburn High Road, London NW6 4JD and on the application deemed to have been made under section 177 (5) of The Town and Country Planning Act 1990 as amended.

Anthony J Wharton

Inspector