

Appeal reasoning

Appeal of a single story rear and side extensions to both ground floor flat at 5 Hillfield Road and 3 Hillfield road (single dwelling house).

The decision notice of refusal is copied below for ease of reference

“The proposed single storey rear/side extensions, by reason of their combined depth, height, bulk and design, would be overly large and disproportionate in size to the original buildings. They would be detrimental to the character and appearance of the host properties and surrounding area, contrary to policy D1 (Design) of the Camden Local Plan 2017 and policy 2 (Design and Character) of the Fortune Green and West Hampstead Neighbourhood Plan 2015.”

The case officer grounds of refusal can be broken down to two policies, I would refer to them as the main two points of refusal.

1. Policy D1 (Design) of the Camden Local Plan 2017 and
2. Policy 2 (Design and Character) of the Fortune Green and West Hampstead Neighbourhood Plan 2015

Point 1

Policy D1 the case officer stated the following;

“The proposed single storey rear/side extensions, by reason of their combined depth, height, bulk and design, would be overly large and disproportionate in size to the original buildings. They would be detrimental to the character and appearance of the host properties and surrounding area, contrary to policy D1 ”

We disagree that the side and rear extension will be detrimental to the character and appearance of the host property and surrounding area. The original building is 3 floor high to the rear outer rigger of the buildings and the extension is only one level. The gardens on Hillfield Road are over 100ft long so having the side and rear extension will be subordinate to the host building and to the surrounding area. Furthermore, the gardens slope away from the house making the extension almost blend into the landscape. At the rear of the garden a large mansion block on 4 floors but as the garden slopes upwards towards the mansion block resulting that the mansion block feel much bigger. The extensions with the surrounding area will be minimal and will barely make any visible difference.

If one looks at context with the surrounding area, then the main building loft extensions are higher than the outer rigger making the rear extensions even more subordinate with the host building.

I would like to refer at this point to the officer delegated report section of amenity and copied below for ease of reference.

“2.9 The main property that is likely to be affected by the proposal is 7 Hillfield Road. As the proposal would sit behind and no higher than the extension that has been

undertaken on the side with no. 1, it would effectively be 'screened' from the garden of this property and the proposal would have no significant impact on the amenity of the rooms at this site. Similarly, owing to the deep gardens along Hillfield Road, it is not considered that the occupants to the rear of the site (South Mansions) would be impacted by the proposal.

2.10 There should be no undue loss of privacy at 7 Hillfield Road. No windows are proposed in the side elevation of the extension at no. 5. A solid wall would be formed on the boundary with no. 7 and no overlooking would result.

2.11 The proposal would not result in undue overshadowing of the garden or loss of light from any rooms at 7 Hillfield Road. The 5.5m extension beyond the rear outrigger at no. 7 would largely sit below the boundary fence. Ground levels rise to the north and the proposal would have the same ground floor level as the existing building and so it would be below the boundary fence. Therefore, as the extension would not exceed the height of the fence on the boundary with no. 7, it would not affect the light received at this site.

2.12 The wider effects on the townscape and visual amenity of the area are discussed in 'Design and character' above. In terms of immediate outlook of neighbouring properties the proposals should not have significant effects. As stated above, the proposed extension would sit below the boundary fence with no. 7 Hillfield Road and consequently it would not have any significant impact on the outlook from the garden or ground floor windows at this site. The upper floor windows would also maintain an outlook to the rear and above the extensions. There would be no undue obscuring or loss of aspect from any windows or unacceptable sense of enclosure. “

It is clear from the above points 2.9, 2.10, 2.11 and 2.12 made by the case officer that the extension will be “screened” off from the adjoining neighbours and the extensions will be below the garden fence. So, one would wonder why would the extensions be detrimental to the character and appearance of the host properties and surrounding area, contrary to policy D1 when the extensions are not noticeable.

If one looks at delegate report, at the proposal section 1.2 it states the following.

“1.2. At no. 5 the extension would be 5.5m in depth next to 7 Hillfield Road (on the existing 2 storey outrigger).”

The extension is not 5.5m as the report keep stating but **4m**. Nor is the outrigger is 2 storey but 3 stories. These errors might have led the case officer thinking the extension is disproportionate and contrary to policy D1.

Section 2 of the delegate report is the assessment.

Section 2.4 for ease of reference

“2.4 There are side infill and rear extensions to neighbouring properties on this side of Hillfield Road (more so at the other end of the road). However these extensions are much more modest in overall size, are subordinate to the host dwelling and are appropriate in their context. It is acknowledged that development has been granted and implemented through permitted development rights at 3 Hillfield Road (i.e. 3m deep single storey side/rear extension ref 2015/4981/P (granted 26/10/2015) and 6m deep single storey rear extension (ref 2015/5336/P, appeal allowed 14/03/2016). It is necessary to consider the cumulative impact of development. Additionally, development which has been undertaken as permitted development for which planning permission is not needed cannot be used as a justification for granting consent for development which requires planning permission.”

Section 2.4 states that the case officer will look at the cumulative impact of the development. This seems to be the main issue. We have exercised our rights under the GDPO for a 6m rear extension and the council refused on amenity however after we have appealed the council decision as the extension had no amenity issues at all on the neighbours the appeal was successful (please see Appendix for the appeals officer report as I believe it is relevant). It seems the council has taken a personal issue with this and every application we are trying to put forward to the council, the council states the site has been over developed and we get a refusal. It is not as we are asking for the application to be approved because we have gained permitted development it is because we believe these application have their own merits to be approved and the council is using the permitted development rights which was granted as reasons to refuse.

The case officer report, paragraph 2.4 acknowledges that applications have been granted on Hillfield Road. Camden have approved many wrap extensions from the outer rigger of Victorian houses in West Hampstead and we have received larger extensions in Camden in the past as each case needs to be assessed on its merits how large the extension can be from the outer rigger of the building. The council will not allow us to build any side extension and penalising us for exercising our rights under the GDPO. Surely this was not the intention of the government and had we known this we would have naturally would have gone with a smaller rear extension from the onset so we can achieve a wrap around extension. Camden should make the rules clear that owners should understand the consequences of 6m extensions or simply put an article 4.

When No. 3 applied for a side extension it was refused on the ground of amenity on number 5, section 2.10 of the report states the following “This is unlike the previous scheme for no.3 alone which was refused on account of its serious amenity impact on no.5.....” So the council goal post has changed to overall bulk as we over came the issue of amenity. However as can be seen below the council have granted infill extension on other properties and the issue of amenity was not a factor.

2.4 Also refers to the neighbours' properties

“There are side infill and rear extensions to neighbouring properties on this side of Hillfield Road (more so at the other end of the road). However these extensions are much more modest in overall size, are subordinate to the host dwelling and are appropriate in their context. “

Below are some of the applications

- 19 Hillfield Road – Wrap around extension - 2020/2208/P
- 57 Hillfield Road – Side extension – 2020/3242/P
- 1 Hillfield Road – Wrap around extension - 2019/3109/P
- 47 Hillfield Road – Wrap around extension - 2018/1408/P
- 25 Hillfield Road – Side extension - 2017/3762/P & 2017/5934/P
- 43 Hillfield Road – Side extension - 2017/7030/P
- 51 Hillfield Road – Side extension (wrap around) - 2009/0293/P
- 49 Hillfield Road – Wrap around extension - 2007/5702/P

I do agree most of the application in the area are indeed smaller and normally are up to 3m deep however these extensions have an impact on the neighbours in most cases and are not as subordinate to the host building and have a visual appearance in context with surrounding area and the extensions are not low profiled as this current proposal. The gardens in those houses do not slope upwards and the extension do stand out significantly more. These extensions are not lower than the garden fences (the exception is 1 Hillfield Road).

Furthermore, if the council deemed that a smaller extension is acceptable, as stated above to be more subordinate then they would have ask us to amend the application as the council does often on other application. It seems the council views are any extension would be deemed unacceptable.

sections 2.5 and 2.6 has been largely addressed above but continues to state it will detract from the aesthetic quality of the buildings and character of the area. Then goes further stating excessive in size and they would fail to respect the prevailing pattern and grain of development of the rear of Hillfield Road.

Had the case officer visited site and would have noticed the building is not 2 story high at the rear. The case officer would also be more aware of the L shape loft conversion and would not state in the report in description section the building is 2 story rear outriggers but in fact it is 3/4 story high. Had he visited site he would notice the topography. He would notice that these extensions would not be breaking the rhythm along Hillfield Road as it would not have been noticed especially due to the topography. As one goes to the garden they do not notice number 15 is a new building with 10 flats and number 19 has two story rear extension.

Section 2.7 states the following

“2.7 Moreover, the proposals erode the character of the gardens at the rear of the properties on this terrace. The extensions would harm the openness at the rear of the terrace and harm the outlook from neighbouring properties. For this reason the current proposal cannot be supported.”

As stated in section 2.12

“In terms of immediate outlook of neighbouring properties the proposals should not have significant effects. As stated above, the proposed extension would sit below the boundary fence with no. 7 Hillfield Road and consequently it would not have any significant impact on the outlook from the garden or ground floor windows at this site. The upper floor windows would also maintain an outlook to the rear and above the extensions.”

As can be seen from his own report of the case officer of section 2.12 that the outlook from neighbouring properties is not affected as the extensions would not be noticeable.

Furthermore, this completely contradicts the current application on the adjoining garden of 1 Hillfield Road to build a new complex of six flats which occupies most of the garden, at least 90% of the garden. The new complex went through pre planning and was approved in principle in preplanning to erect a new building of 3/4 story height.

The second point of refusal was Policy 2 (Design and Character) of the Fortune Green and West Hampstead Neighbourhood Plan 2015. Policy 2 – The most relevant heading seems to be “vii. Extensions - and infill development - being in character and proportion with its context and setting, including the relationship to any adjoining properties.”. The policy 2 itself after the introduction goes into details predominantly on new developments, basements, and roof extensions but no mention of garden extensions at all. **I believe this policy was quoted out of context and probably got infill development mixed with extensions.**

Nevertheless, the extension works well in the context of the current building and surrounding area, especially due to the slope of the garden making the extensions subordinate to the host building and not noticeable in the context of the surrounding area. The house is not in a conservation area.

On a side note, section 2.14. states that if planning was granted a section 106 is requires as “most notably a significant loss of amenity such as daylight and outlook to the shared neighbour” please note the word significant where a lot of side extensions are given planning permission by it is own merits. Furthermore, I have commissioned a letter from a day light report expert that was given to the council stating the extension will not have much of an impact on amenity/day light, it is plainly obvious. Otherwise how side extension would pass planning permission if they had significant impact on the neighbours. The report was done by Walrams Ltd which is a reputable professional experts in day light and sunlight reports report and have done many schemes in London. Speaking to Wadrans director he was surprised the case officer ignored his opinion and said this never happened to him before but was challenged on complex matters in the past where he had to back up his opinion with analysis. We can also provide further wrap extensions planning approval in the area that have been approved such as Agamemnon Road and Achilles Road for example.

Summary

The council did not wish to approve the allowable GDPO of 6m extension that was built, and this was overturned on appeal. As such the council has taken a stance, they will not approve any further extension as the site has been overextended against the council policy and the **council will not consider the site topography** or merits of any further application.

Thank you for your time looking into our objection.

Appendix:

Appeal Decision / Appeal Ref: APP/X5210/D/15/3137892

3 Hillfield Road, London NW6 1QD

Appeal Decision

Site visit made on 16 February 2016

by Kevin Gleeson BA MCD MRTPI

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

Decision date: 14th March 2016

Appeal Ref: APP/X5210/D/15/3137892
3 Hillfield Road, London NW6 1QD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Miss Natalia Nowak, Elevations Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref 2015/5336/P dated 18 September 2015, was refused by notice dated 26 October 2015.
 - The development proposed is described as "6m rear extension under the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2 Part 1 A.1 (g). Ground at rear is raised so the new extension will be similar in height as the current fence with no loss of amenity".
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 1, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 for 6m rear extension under the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2 Part 1 A.1 (g) at 3 Hillfield Road, London NW6 1QD in accordance with the details submitted pursuant to Schedule 2, Part 1, Paragraph A.4 (2) of the GPDO.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) require the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received. My determination of this appeal has been made in the same manner.
3. The reference to the 'ground at rear is raised so the new extension will be similar in height as the current fence with no loss of amenity' is not a description of development. Consequently I have not included this phrase in my decision.

Reasons

4. The appeal property comprises basement, ground and two upper storeys, incorporating a rear projection extending over half the width of the property. Prior approval has been sought for a single storey 6m long rear extension. This
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- would be of the same width as the existing projection and would have a height of 3.2m with a flat roof.
5. The proposed extension would be located on the boundary with no. 1 Hillfield Road which comprises three self-contained flats. On the boundary between the properties is a close boarded fence approximately 2m high which steps up away from the property reflecting the slope of the garden which rises from the rear of the dwelling.
 6. The character to the rear of the appeal property and neighbouring properties is of large gardens with extensive vegetation. This provides an attractive outlook for residents. Following the construction of the proposed extension there would still be an extensive area of garden beyond the rear wall. Therefore, in comparison with the size of the garden as a whole, the scale of the development would be small. Consequently I do not find that the proposal would result in a harmful impact on the outlook of neighbouring occupiers who would continue to experience the greenery of rear gardens locally.
 7. Whilst the proposed development would alter the form of the host property and the appearance of the rear elevations the construction of a 3m extension in accordance with a Certificate of Lawfulness (Proposed) which has been granted would also change the appearance and I need to take account of this position. Taking these matters together I do not find that the proposed development would be visually harmful to neighbours in the context of the wider area.
 8. The rise of the ground away from the existing dwelling would result in the proposed extension being cut into the slope. As the boundary fence steps up away from the properties much of the proposed extension would appear hidden behind the fence when viewed from the ground floor flat. I also recognise that on the external elevation of the neighbouring property is a metal staircase which affects the outlook from the upper flats. Nevertheless, closer to the original building the flank wall of the proposed extension would be higher than the existing fence but not significantly so. In addition, I also have to have regard to the fact that a Certificate of Lawfulness (Proposed) has been granted in respect of a 3m long rear extension at the appeal property which would allow the development of a taller flank wall.
 9. In this context I do not find that the proposed development would be dominant and overbearing to the extent that it would detract from the living conditions of occupants of the neighbouring properties at 1 Hillfield Road. As such, it would not conflict with Policy CS5 of the Camden Core Strategy, 2010 which aims to protect the amenity of residents by seeking to ensure that the impact of development on neighbours is fully considered and Policy DP26 which aims to manage the impact of development on neighbours.
 10. Neighbours have also raised a number of other matters of concern about the proposed development but as the GPDO requires an assessment of the proposed development to be made solely on the basis of its impact on the amenity of any adjoining premises I am unable to take other matters into account.

Conclusion

11. For the reasons given above, I conclude that the appeal should be allowed and approval granted. In granting approval the Appellant should note that the

GPDO requires at Paragraph A.4 (13), (14) and (15) that the development shall be completed on or before 30 May 2019 and that the developer shall notify the local planning authority in writing of the completion of the development as soon as reasonably practicable after completion. Such notification shall include the name of the developer, the address or location of the development, and the date of the completion.

Kevin Gleeson

INSPECTOR