

Appeal Decision

Site visit made on 10 October 2016

by Beverley Wilders BA (Hons) PgDurt MRTPI

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

Decision date: 4 November 2016

Appeal Ref: APP/G5180/W/16/3155415

81 High Street, Penge, London SE20 7HW

- 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 Errol Lueshing against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/01661/FULL1, dated 5 April 2016, was refused by notice dated 20 June 2016.
 - The development proposed is upper floor extension, internal modification and conversion to form 1 bedroom maisonette.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The name of the appellant used in the heading above has been taken from the appeal form and differs from the name stated on the planning application form and on the Council's decision notice as the application was made in the name of the appellant's agent.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupiers of 83 High Street having regard to daylight and outlook.

Reasons

4. The appeal site comprises a three storey terraced building located at the end of a row of similar sized buildings and adjacent to 83 High Street, a smaller scale two storey terraced property. The appeal building has an existing part two storey, part single storey rear extension and a rear dormer. No 83 is a residential property and it has a number of ground and first floor window openings together with a door in its rear and side elevation facing towards the appeal site very close to the common side boundary between the two properties. The orientation of the rear elevation of No 83 together with the proximity and scale of the appeal building means that the outlook from and levels of light received by the ground floor windows in particular at No 83 are poor.
 5. The appeal site has an extensive planning history and I have been provided with decisions relating to 3 previous appeals for rear extensions at the site all
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- of which were dismissed due to concerns regarding the impact on the living conditions of the occupiers of No 83 (Ref DC/07/04322/FULL1, DC/10/01731/FULL1, and DC/13/03723/FULL1).
6. An Overshadowing Analysis (OA) was prepared on behalf of the appellant and submitted with the application. As stated, existing daylight levels to the ground floor windows at No 83 are poor and as the OA confirms, these levels would be further reduced by the proposal and in the case of the dining room/kitchen window the loss would be in excess of BRE guidelines. The OA concludes that the loss of daylight to the dining room/kitchen would be negligible given the existing low levels of daylight received by it and it is further argued by the appellant that as this room already relies on artificial lighting, any change in the level of daylight would have minimal impact. I note that the appellant has also made reference to a large tree in the rear garden of the appeal site and the impact of it on the daylight received by the window in question and to the fact that the dining room/kitchen is served by another window in the rear elevation which is unaffected by the proposal.
 7. Though I have had regard to the OA and to the points made by the appellant, no evidence has been submitted regarding the impact of the existing tree on daylight levels to the window in question and similarly I have not been provided with details of the size of the other window serving the dining room/kitchen or of the daylight levels received by it and I note that the Inspector who dealt with the most recent appeal (Ref DC/13/03723/FULL1) referred to the window as providing the principal daylighting to the dining room/kitchen. From my observations on site and having regard to the available evidence, I do not agree with the conclusion of the OA and consider that any further reduction in daylight to the ground floor side facing dining room/kitchen window at No 83 would result in a significant adverse effect on the living conditions of the occupiers of No 83.
 8. I note that paragraphs 1.3.45 and 1.3.46 of the Mayor of London's Housing Supplementary Planning Guidance (SPG) relate to standards for privacy, daylight and sunlight and in particular state that an appropriate degree of flexibility needs to be applied when using BRE guidelines. However in this particular case, having regard to the fact that the affected room is a main living area, the relative position of No 83 and the appeal site, the scale of the proposed extension and to existing poor daylight conditions, I do not consider that it is a case where BRE guidelines should be applied more flexibly or that the nature and character of surrounding development justifies a deviation from normal standards.
 9. With regard to outlook, I note that the Inspector dealing with the most recent appeal (Ref DC/13/03723/FULL1) found no harm to the outlook from No 83. I also note that the proposal before me is for a slightly smaller extension than the one that was the subject of the most recent appeal. Based on that fact and on the available evidence, I have no reason to disagree with the findings of the previous Inspector on the issue of outlook.
 10. Taking the above matters into consideration, although the proposal would not adversely affect the outlook from No 83 it would result in a harmful loss of daylight to the existing ground floor side facing dining room/kitchen window at No 83. Consequently it would have a significant adverse effect on the living conditions of the occupiers of No 83 having regard to daylight and would be

contrary to Policy BE1 of the London Borough of Bromley Unitary Development Plan. This policy requires development proposals, amongst other things, to respect the amenity of the occupiers of neighbouring buildings.

Other Matters

11. In reaching my decision I have had regard to the fact that the proposal would provide an additional dwelling on a previously developed site in an accessible location. I also note that it would incorporate sustainable features, that the appellant states that it meets density guidelines and that no objections were raised by the Council to its design and appearance or to the size of the accommodation proposed. However whilst there would be some limited economic and social benefits arising from the proposal these do not outweigh the harm that I have identified.

Conclusion

12. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR