
Appeal Decision

Site visit made on 14 November 2016

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 6 December 2016

Appeal Ref: APP/P5870/W/16/3158048

143 Church Hill Road, North Cheam, Sutton SM3 8NE.

- 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 Mrs Diane Smart against the decision of the Council of the London Borough of Sutton.
 - The application Ref A2016/73772/FUL, dated 17 February 2016, was refused by notice dated 19 April 2016.
 - The development proposed is 1 x new flat (Flat D) at rear of 143 Church Hill Road, and associated alterations to the existing ground floor flat (Flat C).
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Decision

1. The appeal is allowed and planning permission is granted for 1 x new flat (Flat D) and associated alterations to the existing ground floor flat (Flat C) at 143 Church Hill Road, North Cheam, Sutton SM3 8NE in accordance with the terms of the application, Ref A2016/73772/FUL, dated 17 February 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 01 Rev. A, 15 Rev A and 16.
 - 3) All external facing materials, treatments and finishes shall be similar to those of the original building. Where this is not possible the type and treatment of the materials to be used shall be agreed in writing by the Local Planning Authority prior to the development being carried out.

Preliminary Matters

2. The Council have drawn my attention to an earlier appeal decision at the same site¹. However few details of that proposal are before me and in any event it is apparent from the Council's Officer Report that there are differences between the two schemes not least to the size of the proposed flat. That being the case, I have determined the appeal before me purely on its own merits, in the light of the particular circumstances which apply in this case.

Main Issue

3. This is the effect of the development on the living conditions of neighbouring and future occupiers with particular regards to outlook and noise disturbance.

¹ PINS Ref: APP/P5870/W/16/3149566

Reasons

4. The appeal site is located to the rear of 143 Church Hill Road, a mid-terrace property located at the end of a parade of shops. The property as well as its end-terrace neighbour is currently sub-divided into private flats. The rear of the property backs onto a shared service yard/parking court which serves the adjacent shops commercial units and flats.
5. The proposal seeks permission for the erection of a ground floor extension to create a studio flat (Flat D). It would be accessed via the front door of No 145 and comprise an open-plan living/kitchen/bedroom area, hallway, bathroom and a small outside seating area. Rather than the principle of the development, the Council's opposition to the scheme rests on the loss of outlook to the occupiers of neighbouring flats.
6. Flat D would be sited at close quarters to Flat 2 which is located to the rear of the adjacent property No 145. I acknowledge that Flat 2 has a limited number of openings and the development would be close to the kitchen and lounge windows. However, as the Council concede there is currently a very poor outlook from these windows, with both facing the fence that delineates the boundary between the two properties. As part of the scheme this fence would be removed with the new side wall of the proposed flat being over twice the distance from these windows. I consider this increased separation would represent a material improvement to the outlook of the occupiers of Flat 2. Consequently, there would be no harm caused to the living conditions of these occupiers.
7. In terms of Flat C, there would be some loss of outlook from the rear bedroom window. However, this window does not currently benefit from an open aspect as there are a number of outbuildings to the rear of No 143 which would be demolished as part of the scheme. It is also pertinent that the occupiers of this flat would benefit from the creation of a small outdoor amenity area. With this in mind in addition to the site's context within a built-up area, I do not consider there would be an unacceptable loss of outlook to the occupiers of Flat C.
8. I accept that the future occupiers of Flat D might be exposed to occasional noise disturbance from the service yard. However, there are numerous flats in close proximity to the yard and I have seen no evidence to suggest it is a source of significant noise and disturbance to local residents. Whilst there are a number of lock-up garages, the comings and goings associated with these are likely to be infrequent especially at night. In any event, if future occupiers were to have concerns in this regard, I can see no reason why the internal layout could not be reconfigured and the sleeping area located to northern end of the open-plan area. For the same reasons, I find it improbable that the yard would result in unacceptable levels of overlooking to future occupiers.
9. Based on the foregoing, I conclude that the development would not cause unacceptable harm to the living conditions of neighbouring and future occupiers with particular regards to outlook and noise disturbance. Accordingly, there would be no conflict with Policy DM2 of the "*Site Development Policies DPD*", which amongst other things, seeks to ensure new development does not adversely affect the amenities of future occupiers or those currently occupying adjoining or nearby properties.

Conditions

10. The Council has suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance (PPG). In some instances I have amended the conditions provided by the Council in the interests of brevity and to ensure compliance with the PPG.
11. I have imposed the standard implementation condition as well as a condition to ensure that the development is carried out in accordance with the approved plans, as this provides certainty. A condition relating to external facing materials is necessary to ensure the satisfactory appearance of the development.
12. The suggested conditions relating to cycle parking and the boundary fence are unnecessary given that these details are shown on the approved plans and are therefore captured by the plans condition. Paragraph 200 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. On that basis, and bearing in mind the size of the proposed unit, a condition preventing the use of the property as a HMO is plainly unnecessary.

Conclusion

13. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should succeed.

D. M. Young

Inspector