
Appeal Decision

Site visit made on 24 June 2019

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th July 2019

Appeal Ref: APP/A5840/D/19/3224961
289 Upland Road, London SE22 0DN

- 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 Minh Travanba against the decision of the Council of the London Borough of Southwark.
 - The application Ref 18/AP/3456, dated 23 October 2018, was refused by notice dated 20 December 2018.
 - The development proposed is a ground floor rear and side extension to an existing residential property.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupiers of 287 Upland Road, with particular regard to daylight and outlook.

Reasons

3. The appeal property is an end of terrace dwelling situated on the primarily residential Upland Road. It has a two storey rear outrigger with a modest single storey element constructed from brick beyond this. Attached to this element is a conservatory which wraps partly around the two storey rear outrigger and into the side return.
4. The proposal would remove the single storey brick element and conservatory and would introduce a new single storey side and rear extension. The proposed extension would fill in the side return to the boundary with the adjoining property, No 287, and would wrap around the existing two storey outrigger. It would extend along the boundary of No 287 by almost 12 metres (m) to a height of approximately 2.4m above the ground level of No 287.
5. No 287 has three ground floor windows close to the boundary with the appeal property, two of which directly face it. It is my understanding that these windows serve habitable rooms and are currently afforded a reasonable level of daylight and outlook given the setback of the existing rear outrigger of the appeal property from the shared boundary.
6. Without any substantive evidence to demonstrate otherwise, I consider that the height of the proposed extension and its proximity to the abovementioned windows of No 287, combined with its considerable length, would be likely to give rise to a harmful loss of daylight to these windows. For the same reasons, the proposed

extension would be likely to create an overwhelming sense of enclosure to these windows and lead to a harmful loss of outlook from them. Therefore, I consider that the proposal would result in significant harm to the living conditions of the occupiers of No 287. This would have an adverse impact on the enjoyment of their home.

7. The proposal would therefore be contrary to saved Policy 3.2 of the Southwark Plan 2007 which seeks to protect the amenity of neighbouring occupiers. It would also be contrary to the guidance of the Council's 2015 Technical Update to the Residential Design Standards (2011) Supplementary Planning Document which advises that extensions should not adversely affect the amenity of neighbours and adjoining occupiers.

Other Matters

8. My attention has been drawn to an extension at No 291 in support of the appeal. Nonetheless, I have not been provided with the full details of the Council's reasons for granting consent for it. Moreover, according to the plans provided, it appears that the neighbouring property, No 293 is set away from the boundary with No 291 and has a wider side return than is the case for No 287. In addition, I am unaware of whether there were any windows within No 293 which might have been affected. This example is not therefore wholly comparable to the appeal proposal and does not provide justification for it. In any event, each case should be considered on its own merits.
9. I have had regard to the personal circumstances of the appellant and recognise the benefits that the proposal would bring to him and his family. However, such benefits would not be sufficient to outweigh the harm I have identified.
10. Whilst no objections have been received from neighbours, this does not inevitably indicate an absence of harm. The Council clearly sets out why it considers the application unacceptable and as can be seen from my above findings, I concur with this view.
11. A concern is raised in respect of the Council's handling of the application. However, this is not a matter for my concern in an appeal under s78 of the Town and Country Planning Act 1990 (as amended).
12. The appellant makes reference to the ability to erect a 2 metre high fence/wall along the boundary with No 287 under permitted development rights. However, there is no compelling evidence to demonstrate that the appellant intends to do this. Furthermore, such a height would be materially less than the height of the proposed extension in any event. This matter does not therefore justify a planning permission and I afford it little weight.
13. The submitted site location plan appears to incorrectly show the red line boundary around No 291, notwithstanding that it is annotated as No 289. Nevertheless, as I am minded to dismiss the appeal for other substantive reasons, I do not consider it necessary to revert to the main parties on this matter.

Conclusion

14. For the reasons set out above, I conclude that the appeal should be dismissed.

T J Burnham

INSPECTOR