



Appeal Decision

Site visit made on 30 July 2019

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th September 2019

Appeal Ref: APP/T5720/D/19/3226712

7 Spencer Road, Mitcham, Greater London CR4 1SG

- 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 Dr Sasi Pathmanathan against the decision of the Council of the London Borough of Merton.
 - The application Ref 18/P2896, dated 14 July 2018, was refused by notice dated 22 January 2019.
 - The development proposed is a ground floor rear extension.
-

Decision

1. The appeal is allowed and planning permission is granted for a ground floor rear extension at 7 Spencer Road, Mitcham, Greater London CR4 1SG in accordance with the terms of the application, Ref: 18/P2896, dated 14 July 2018, 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: Site Location Plan, PL030, PL031, PL032 and PL033.
 - 3) The external surfaces of the development hereby permitted shall be constructed in accordance with the materials specified in the application form and the design and access statement.
 - 4) Demolition or construction works shall take place only between the hours of 08:00 and 18:00 on Monday to Friday, 08:00 to 13:00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.

Procedural Matters

2. The Council's decision notice lists two reasons for refusal. However, the first reason for refusal refers to the approach to decision taking as set out in the former National Planning Policy Framework (July 2018). This has had no bearing on the appeal as I have determined it on the basis of the planning merits of the proposal that is before me.
3. The second reason for refusal on the Council's decision notice refers to the living conditions of the occupiers of the neighbouring property, No 7 Spencer

Road. However, No 7 is the appeal site. As such, I wrote to the Council to seek clarification on this matter, but no response was provided.

4. Consequently, I have concluded that this was a typographical error and based on the evidence before me, which includes my site observations, I consider that the Council's concern related to the effect of the development on the occupiers of No 9 Spencer Road. In reaching this view, I note that the appellant's statement refers to the effect of the proposal upon the living conditions of the occupiers of No 9. Therefore, I am satisfied that neither of the main parties would be prejudiced by framing the main issue with reference to No 9 Spencer Road.
5. As part of the appeal, the appellant has submitted an updated section drawing (dwg no: Appendix B - PL 033) which clarifies the size of the proposed extension. As the submitted drawing does not evolve the scheme beyond which people's views were sought in respect of the originally submitted planning application, I am satisfied that neither the Council nor any other interested party would be prejudiced by my determination of the appeal on the basis of a consideration of the aforementioned plan.
6. The National Planning Policy Framework was revised in February 2019 (the Framework). I have taken the Framework into account as part of the determination of this appeal. There has been no material change to the Framework in respect of my consideration of the main issue.

Main Issue

7. The main issue is the effect of the development upon the living conditions of the occupiers of 9 Spencer Road with regard to outlook, daylight and sunlight.

Reasons

8. The appeal site is a two-storey terraced dwelling located on the western side of Spencer Road. The rear garden slopes gently downwards from the rear elevation to the rear boundary. It is proposed to erect a single storey, flat roof, rear extension, which would have a depth of about six metres. The proposal has been designed to be wheelchair accessible and includes an access ramp to the rear garden. To facilitate the proposed extension and wheelchair ramp, the existing garden level would be partially raised.
9. On the rear elevation of No 9 Spencer Road there is a ground-floor window and a pair of French doors. The window and doors are clearly glazed and serve habitable accommodation. The users of these rooms presently have views over their rear garden, which is about 30 metres in length, with the flank elevation of an extension to No 11 Spencer Road seen to the right and the boundary fence with the appeal site seen to the left.
10. The proposal would introduce built form along the shared boundary with No 9. The impact of the additional built form, when viewed from the rear of No 9, would be limited due to the single storey height and flat roof design of the proposed extension, with the long garden views from the rear of No 9 remaining largely unaltered by the proposal. Consequently, I conclude that the occupiers of No 9 would retain an acceptable outlook and that the proposal would not lead to an oppressive sense of enclosure when viewed from the aforementioned habitable room windows or the rear garden.

11. In terms of daylight and sunlight, the rear of No 9 faces west and therefore the rearward facing rooms receive most of their daylight and sunlight in the afternoon and evening. The proposed extension would be located to the south of No 9. Given the single storey height of the proposal and the flat roof design, it would only cause a very limited amount of shadowing to the rear of No 9, which would be for a relatively short period of the day due to the depth of the proposed extension. Consequently, I conclude that the proposal would not result in a material loss of daylight or sunlight for the occupiers of No 9.
12. For the collective reasons outlined above, I conclude that the proposed development would not cause significant and demonstrable harm to the living conditions of the occupiers of No 9 Spencer Road in respect of outlook, daylight and sunlight. As such, the proposal would accord with Policy CS14 of the London Borough of Merton LDF Core Planning Strategy (2011) and Policies DMD2 and DMD3 of the adopted Merton Sites and Policies Plan (2014), which, amongst other things, require development to safeguard the living conditions of neighbouring occupiers. In addition, the proposal would accord with Paragraph 127 of the Framework which requires that development does not have an adverse impact on the amenities of existing and future occupants.

Conditions

13. The Council have suggested four conditions which I have considered against the tests as laid out in paragraph 55 of the Framework. In the interests of consistency and precision, I have amended the wording of three of the conditions.
14. Planning permission is granted subject to the standard three-year time limit condition. It is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. In the interests of the character and appearance of the area, it is necessary to impose a materials condition.
15. In the interests of the living conditions of the occupiers of neighbouring residents, I have imposed a condition to restrict the hours of construction and demolition.

Conclusion

16. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Christopher Miell

Inspector