



Appeal Decision

Site visit made on 15 August 2019

by Timothy C King BA (Hons) MRTPI

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

Decision date: 16 September 2019

Appeal Ref: APP/P5870/C/18/3212677

46 St Benets Grove, Carshalton SM5 1AX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr P Gurung against an enforcement notice issued by the Council of the London Borough of Sutton.
 - The enforcement notice was issued on 29 August 2018.
 - The breach of planning control as alleged in the notice is: without planning permission the erection of an additional single storey rear extension (outlined in green on attached drawing).
 - The requirements of the notice are to:
 - (i) Demolish the extension outlined in green on the attached drawing.
 - (ii) Remove from the land all building materials and rubble arising from compliance with requirement (i) above.
 - The period for compliance with the requirements is 4 months after the date this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Summary of decision

1. The appeal succeeds in part and the enforcement notice is upheld as varied in the terms set out below and in the Formal Decision.

Background

2. Planning permission was refused (ref DM2018/00924) in August 2018 for the retention of a rear conservatory to this mid-terraced dwelling. The Council subsequently served an enforcement notice requiring the extension's removal.
3. The Council considered it expedient to issue the notice due to what it considered to be the impact of the conservatory, coupled with an earlier permitted extension, on the occupiers of No 48, the immediate neighbouring property. When considering the cumulative effect, the Council assessed the conservatory as representing a prominent and disproportionate addition to the dwelling.

The Appeal on Ground (a) and the Deemed Planning Application

Main Issues

4. These are:

- 1) the effect of the development on the living conditions at no 48, with particular regard to loss of light and outlook; and
- 2) the effect of the development on the character and appearance of the host dwelling and its surrounding area.

Reasons

Living conditions

5. The previously approved rear extension, to which the conservatory at issue is attached, similarly runs close to the boundary with No 48, the immediate neighbour. A standard height garden fence immediately to the side demarcates the two properties.
6. The conservatory, which is to a depth of some 3.5m, together with the flank wall of the extension behind, gives a total depth of approximately 5.9m, additional to the original dwelling. This conflicts with the guidance provided in the Council's Supplementary Planning Document 'Design of Residential Extensions' (SPD) which, to limit the effects on neighbouring occupiers, advises that single storey rear extensions to terraced dwellings should not project more than 2.7m in depth.
7. I acknowledge that the conservatory is mainly glazed, that its ridge rises to a modest height of less than 3m, and that the roof panels slope down to the eaves which are only slightly higher than the garden fence. Such factors would normally serve to ameliorate the degree of impact in terms of natural light/sunlight entry. However, in this particular instance the situation is compounded as No 48 has not been extended and the additions to the appeal dwelling are situated along No 48's south-western boundary, an unfavourable orientation in terms of the effect on its occupiers.
8. At my site visit, carried out in the late morning, I observed that the section of No 48's rear garden close to its facing ground floor window was already in some shade. Indeed, one of the photographs provided on page 7 of the appellant's written statement clearly illustrates the cumulative effect of the physical additions. Taken during daylight hours, it shows that the area of rear garden behind these structures is subjected to significant overshadowing and loss of light. On this basis I find that the reduction in light entry would be exacerbated as afternoons progress and such an impact would certainly be particularly evident outside the summer months to the detriment of No 48's occupiers. Due to the appeal dwelling's increased depth the physical arrangement also impacts on their outlook.
9. In the circumstances I conclude that the development is harmful to the living conditions at No 48 and is at odds with both the SPD's guidance and the objectives of policy 29 of the Sutton Local Plan (LP) which serves to discourage development that adversely affects the amenities of neighbouring occupiers.

Character and appearance

10. The conservatory, as a single entity, is a somewhat modest structure. Although its depth exceeds the SPD's guideline figure its width is approximately half that of the dwelling. Further, with its glazed panels and sloping roof I am satisfied that its design and appearance is to a good standard, and to this end, taken in isolation, it is an acceptable form of development. However, with the dwelling having already been significantly extended, the total depth of the additions would fall just short of effectively doubling that of the original dwelling. Given this, and the fact that when looking along the rear of the terrace at my site visit I did not observe any other examples of such a substantial physical increase, I must agree with the Council that the totality of extensions represents a disproportionate addition to the dwelling.
11. Although the National Planning Policy Framework (the Framework) refers to optimising the potential of a site it also says, in paragraph 127, that planning decisions should ensure that developments are sympathetic to local character including the surrounding built environment. Here, the resultant effect involves additional development of particular prominence and the extended dwelling now appears out of character with the surrounding area.
12. On this main issue I conclude that the development is harmful to the character and appearance of both the host dwelling and its surrounding area, and is in conflict with relevant advice in SPD paragraph 3.1.2, LP policy 28 and the Framework which, taken together, stress the importance of extensions being sympathetic to the original dwelling and also responding to local character.

Other considerations

13. The Council's SPD was adopted in 2006, and the appellant considers that its advice is outdated given the scope to extend terraced dwellings by up to 6m under the more recent Prior Notification procedure. However, this is not applicable for retrospective proposals such as is the case here as the Council would need to determine whether prior approval was required for the extension, based on consultation with neighbouring properties. In instances where those neighbours that share a boundary with the property to be extended raise an objection, the Council is obliged to take this into account and make a decision about whether the impact on the amenities of all adjoining properties is acceptable.
14. Instead, in this particular instance an application for retrospective planning permission was made and the neighbour at No 48 made written representations objecting to the development. Although the letter did not make specific reference to loss of light or outlook there is little to convince me that even had the circumstances allowed for the appellant to avail himself of the prior notification vehicle a similar objection from the immediate neighbour would not have occurred or, given this, the Council's decision would not have been different.
15. The neighbour did raise concerns regarding the absence of non-opening fanlights and obscured glazing for the top section of those side panels facing No 48. However, I do not consider that such measures would serve to mitigate the impact in view of my findings as to the impact resulting from the cumulative increase in depth.

16. In support of his case the appellant mentions that there is a variety of other single storey rear extensions and specifically cites a full width addition with an attached open canopy to No 42 along the terrace. However, the extension's depth is significantly less than that of the total additions made to the appeal dwelling. Further, the Council has indicated that the canopy, which is open-sided, does not have the benefit of planning permission. I therefore attach little weight to these factors counting in the appellant's favour.

Conclusion on Ground (a)

17. I have found harm on both main issues, which is compelling. The appeal on this ground, therefore, does not succeed.

The Appeal on Ground (g)

18. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. Here, the demolition is required of a largely glazed structure of lightweight construction and the subsequent removal of its residual components from the land. Also, notwithstanding my findings as to the part played by the extension in the resultant cumulative impact on No 48, as mentioned, it is not an especially large structure. That said, at my site visit it appeared to be in use as a dining area with associated furniture and storage evident. In the circumstances, I am satisfied that the appellant's request to increase the period for compliance to six months would be reasonable to allow for the dwelling's internal accommodation to be reorganised and enable the requirements of the notice to be met.
19. On this basis the appeal succeeds on ground (g) and I will vary the notice, accordingly.

Conclusion

20. For the reasons given above I conclude that a reasonable period for compliance would be 6 months, and I am varying the notice, accordingly, prior to upholding it. The appeal under ground (g) succeeds to that extent.

Formal Decision

21. The appeal is allowed on ground (g), and it is directed that the enforcement notice be varied by the deletion of 4 months and the substitution of 6 months as the period for compliance. Subject to this variation the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Timothy C King

INSPECTOR