The Planning Inspectorate

Appeal Decision

Site visit made on 12 November 2019

by Martin Small, BA (Hons), BPl, DipCM, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2019

Appeal Ref: APP/H5960/W/19/3234981
34 Badminton Road, Balham, London

- 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 Stephen Stubbs against the decision of the Council of the London Borough of Wandsworth.
- The application Ref: 2018/5070 dated 30 September 2018, was refused by notice dated 17 June 2019.
- The development proposed is described as the conversion of existing roof space and linking it to first floor level to produce a two level 4-bedroom flat with second floor living room and roof terrace plus external link to part of rear garden space.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of the development in the banner heading above is taken from the application form. However, I note that neither the description of development on the Council's decision notice nor on the appeal form include a reference to an external link to part of the rear garden space. The only external access to the rear garden shown on the drawings that have been provided to me is the existing staircase from the property. I have determined the appeal on this basis.

Main Issues

3. The main issues are the effect of the proposed development on i) the character and appearance of the host property and of the area and ii) the living conditions of the occupiers of neighbouring properties, with particular regard to overlooking, overshadowing and outlook.

Reasons

Character and appearance

4. Badminton Road is a mature residential area with predominantly 2-storey terraced properties to either side, some of which have accommodation within the roof space. The properties on the eastern side of the road, including the appeal property, have flat-roofed 2-storey additions to the rear elevations. From the evidence before me and as I observed during my site visit, some of these properties have large rear roof extensions and roof terraces on these additions.

5. The rear roof extension proposed as part of the development would be substantial but would be set below the existing ridgeline of the appeal property and set in from the sides of the property. Accordingly, it would have an acceptable effect on the character and appearance of the host property and, given the existence of other such dormers on properties in the vicinity, on the character and appearance of the area.

6. The proposed roof terrace would extend the full width and depth of the roof of the existing rear addition, but it would not extend beyond the footprint of the addition nor would it be higher than the existing ridgeline. The overall mass of the terrace would not be substantial as seen from the rears of the properties on Lysias Road opposite the appeal property due to the proposed balustrade to the main aspect of the terrace being low and constructed of steel and glazed panels.

7. However, the proposed 1.8 m high obscure glazed screens to either side of the terrace along the side edges of the flat roof of the rear addition and extending the full depth of the addition would present a significant bulk on top of the rear addition. I therefore consider that in this respect the proposed roof terrace would not integrate sympathetically with the host dwelling even with the proposed roof extension.

8. In addition, from the evidence before me, the extension of the proposed terrace to the side elevations of the rear addition and consequent positioning of the side screens along the side edges of the addition would differentiate it from the majority of the existing roof terraces on other properties on this side of Badminton Road which, with the exception of that at 2 Badminton Road, are set in from the side elevations of the rear additions to those properties. These include the two existing roof terraces to which the appellant draws my attention at 8 and 10 Badminton Road. The proposed terrace would thus differ from the terraces permitted at Nos. 8 and 10 (that at No. 10 also being set back from the rear elevation of the property) and would be at odds with the prevailing form of these other existing roof terraces.

9. I therefore conclude that the roof terrace as proposed would be harmful to the character and appearance of the host property and of the terrace of which the property forms part. As a consequence, it would be contrary to criterion b. of Policy DMS 1 and criterion i of Policy DMH 5 of the Wandsworth Local Plan Development Management Policies Document (2016) (DMPD) which, in combination and amongst other things, require extensions to be well-designed and contribute positively to local spatial character. In this respect it would also be contrary to the advice on roof terraces in the Wandsworth Local Plan Housing Supplementary Planning Document (2016) (the HSPD).

Living conditions

10. The proposed rear roof extension would have large glazed doors to open onto the proposed roof terrace. From these there would be a clear view towards the rears of the properties on Lysias Road opposite the appeal property. However, these properties are already overlooked from first-floor windows in the rear elevation of the appeal property which are significantly closer. Therefore, although the proposed roof extension would be higher, it would not lead to a material increase in overlooking of the properties on Lysias Road.

11. The proposed obscure glazed panels to either side of the roof terrace would prevent overlooking from the terrace to the rear gardens of the neighbouring properties on Badminton Road either side of the host property. However, the terrace would provide a clear view into the rear garden of 33 Badminton Road and the rear gardens and windows in the rear elevations of the properties on Lysias Road opposite the appeal property. This would be the case even if the panels in the main aspect were obscure glazed due to their low height, which would allow overlooking. The degree of overlooking would be exacerbated by the terrace extending to the full depth of the rear addition.

12. Overlooking could be prevented by the erection of higher screens to the main aspect of the proposed roof terrace. These could be required by a planning condition were planning permission to be granted. However, the erection of screens high enough to prevent overlooking in line with the rear elevation of the rear addition would result in an increased bulk that would exacerbate the harm to the character and appearance of the host property and the area that I have identified above. Accordingly, erecting such screens in this position would not be an acceptable means of addressing the issue of overlooking.

13. I have acknowledged that there are other roof terraces in the vicinity. I do not have the full details of these and have not had the opportunity to visit them to assess the degree of overlooking from them. However, from the evidence before me, those existing terraces that have balustrades that would allow overlooking towards neighbouring properties, including those at Nos. 8 and 10, have a different outlook to that of the proposed terrace.

14. Both the neighbouring properties to either side of the appeal property and the rear elevations of properties on Lysias Road opposite the appeal site have windows in their rear elevations. However, the proposed rear roof extension would not project beyond the eaves of the rear roof slope of the appeal property and would be some distance from the properties on Lysias Road. As a result, it would not harmfully affect the outlook from the windows of any of these properties or the amount of daylight or sunlight they receive.

15. The properties either side of the appeal property have windows in both the rear elevations of the main buildings and the rear additions. As the proposed side screens to the roof terrace would not extend beyond the rear elevation of the addition there would be no loss of sunlight or daylight to the windows in the rear elevations of the neighbouring properties' rear additions. Given the arc of the sun and the siting of 36 Badminton Road to the south of the appeal property, there would be no loss of sunlight to the window in the rear elevation of the main dwelling of No. 36 closest to No. 34 as a result of the proposed side screens. However, there would be a potential loss of sunlight to the corresponding window in the rear elevation of the main dwelling at No. 32 during part of the day.

16. In addition, given the proximity of the proposed roof terrace to the nearest windows in the rear elevations of 32 and 36 Badminton Road, the Council contends that the proposed side screen panels would breach the '45° test'. This derives from the Building Research Establishment's Planning for Daylight and Sunlight: A Guide to Good Practice (2011), to which the HSPD refers. The appellant's position is that the design of the proposal clearly demonstrates a lack of issues with regard to loss of daylight / sunlight but the appellant has not specifically rebutted the contended breach of the 45° test. No evidence has

been provided to demonstrate that the proposed side panels would not adversely affect the levels of daylight reaching the rooms served by these windows.

17. The outlook from these windows is already restricted by the rear additions to these properties and that to No. 34. Due to their height and proximity to these windows, the proposed side panels would reduce this already limited outlook and would thus be harmful to the outlook from these windows.

18. Whilst the proposed development would not be harmful to the quiet enjoyment of the occupiers of neighbouring properties nor encroach onto those properties, the proposed roof terrace would therefore cause unacceptable harm to the living conditions of the occupiers of neighbouring properties due to overlooking and a consequent loss of privacy and the effect of the proposed side panels on outlook from Nos. 32 and 36. It has not been demonstrated that the proposed side panels would not result in an unacceptable loss of daylight to the upper floor windows of Nos. 32 and 36 closest to the appeal property and of sunlight in respect of the closest window in No. 32.

19. I therefore conclude that the roof terrace would be contrary in these respects to criterion c. of Policy DMS 1 of the DMPD which protects the amenity of nearby properties as regards, amongst other things, privacy, outlook and daylight / sunlight.

Conclusion

20. The proposed development would result in enhanced living conditions for the appellant. However, this is not sufficient to overcome the conflict with the policies of the development plan I have identified above. The proposed development would not represent sustainable development in terms of the National Planning Policy Framework as it would not, for the reasons given above, meet the environmental or social objectives for the planning system to achieve sustainable development as set out in paragraph 8 of the Framework.

21. Therefore, for the reasons given above, the appeal is dismissed.

Martin Small

INSPECTOR