
Appeal Decision

Site visit made on 20 January 2020

by B M Campbell BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th February 2020

Appeal Ref: APP/T5720/W/19/3237097

2 Dahlia Gardens, Mitcham CR4 1LA

- 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 M Arshad against the decision of the Council of the London Borough of Merton.
 - The application Ref 19/P2248, dated 21 May 2019, was refused by notice dated 5 August 2019.
 - The development proposed is the construction of an outbuilding (retrospective).
-

Formal Decision

1. The appeal is allowed and planning permission is granted for the construction of an outbuilding at 2 Dahlia Gardens, Mitcham CR4 1LA in accordance with the terms of the application, Ref 19/P2248, dated 21 May 2019, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with approved drawing numbers ARS-01-100, ARS-01-200 and ARS-01-300.
 - 2) The roof area of the extension hereby permitted shall not be used as a balcony, roof garden or similar amenity area.

Preliminary matters

2. An application for costs was made by Mr M Arshad against the Council. This application is the subject of a separate Decision.
3. The Council's decision notice describes the proposed development as the "retention of the single storey outbuilding in the rear garden". The retention of a building does not involve development requiring planning permission. It is the construction or erection of the building which comprises the act of development and thus the Appellant's description is the more accurate.
4. Two reasons for refusal were cited on the Council's decision notice refusing the application. However, on 5 December 2019 the Council indicated that its statement would only be addressing the first reason for refusal, which it does. As the Council has not sought to substantiate the second reason for refusal, I take that to mean that it is withdrawn.

Main Issue

5. The main issue is the effect of the outbuilding on the character and appearance of the residential area.

Reasons

6. The appeal property comprises an end of terrace house situated within a residential area of predominantly terraced properties. A common feature of the area is that wide access ways run along the backs of the properties between the rear gardens of houses backing onto one another. The availability of the rear access has led to most properties having single storey outbuildings of a significant size at the ends of the rear gardens. One such access way from Dahlia Gardens runs along the side and rear of the appeal property.
7. The building, the subject of this appeal, is being constructed at the end of the rear garden and is nearing completion. It covers almost the whole width of the garden with just a small inset from the side boundary with No.4. As the garden widens towards the rear of the plot the building is wider than others that I saw. It did not, however, appear at odds with the general pattern of development at the rear of the houses where a good proportion of the properties have a garden building filling the entire width of their plots. Indeed, the appeal building is the end one in a row of almost continuous buildings along the backs of the gardens fronting the rear access.
8. The building is marginally deeper than the outbuilding on the adjoining plot, No.4, extending slightly further into the garden towards the main house. However, that difference is not of such magnitude that the building stands out as materially different from other outbuildings at the ends of the gardens along the terrace. The aerial photograph submitted by the Appellant shows that there are other outbuildings in the area with equivalent and greater depths.
9. I also found the height of the flat roof of the building, at just over 3 metres, to be unremarkable. Whilst, it rises above the eaves of the outbuilding next door at No.4, it is lower than the ridge of that building.
10. The outbuilding is not readily visible from Dahlia Gardens so as to have any material effect in any public viewpoint. Nonetheless, it is prominently located when viewed from the private rear access as it is located at a wide junction of the accesses and has both its rear and one flank elevation exposed. It is thus more conspicuously positioned than other neighbouring rear garden buildings situated within, rather than at the end of, a row of similar buildings.
11. Even situated in that exposed location, however, and accepting that it is wider than most others, the outbuilding does not appear excessively, large, bulky or tall. I found nothing about its size or appearance to make it seem out of keeping with its near neighbours or out of keeping with the pattern of development to the rear of the houses and fronting the accesses. To my mind it is no more of a visual intrusion for neighbours than any of the other numerous garden buildings filling the width of their plots.
12. On the main issue, I conclude that the outbuilding does not harm the character or appearance of the residential area. In this respect I find no conflict with the policies of the Development Plan (Policy 7.4 of the London Plan, CS 14 of the Council's Core Strategy and DM D2 of the Council's Sites and Policies Plan) which seek a high standard of design with respect for local character and protection of amenity.
13. The Council has suggested five conditions in the event that the appeal is allowed and planning permission granted.

14. The first, requiring commencement within three years is patently unnecessary since the building is nearing completion. The second, requiring the development to be carried out in accordance with the submitted drawings is necessary as it provides certainty.
15. I find no reason to require the materials to be those specified on the application form when they are shown on the drawings and development will be required, by condition, to be carried out in accordance with those drawings. Although no access is shown to the flat roof, it is feasible that such an access could be formed in future and thus a condition preventing its use as an amenity area is necessary.
16. Finally, there is no need for a condition restricting the use of the outbuilding to purposes incidental to the use of the main dwelling for reasons of preventing the introduction of an independent use. Any use other than in connection with the host dwelling for incidental or ancillary purposes would involve a material change of use for which planning permission would be required and against which the Council could take action if it was considered expedient to do so.
17. For the reasons given above I conclude that the appeal should be allowed.

B M Campbell

Inspector