



Appeal Decision

Site visit made on 5 October 2020

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2020

Appeal Ref: APP/T5720/W/19/3241538

116 Wimbledon Hill Road, Wimbledon, London SW19 7QU

- 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 & Mrs S Agrawal against the decision of the Council of the London Borough of Merton.
 - The application Ref 19/P2975, dated 5 August 2019, was refused by notice dated 14 October 2019.
 - The development proposed is proposed demolition of existing house and construction of a new single-family dwelling house with basement.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing house and construction of a new single family dwelling house with basement at 116 Wimbledon Hill Road, Wimbledon, London SW19 7QU in accordance with the terms of the application, Ref 19/P2975, dated 5 August 2019, subject to the conditions set out on the attached Schedule of Conditions.

Background and Main Issue

2. The single reason for refusal refers in broad terms to the effect of the proposal on amenities of occupiers of neighbouring properties without specifying what aspects of amenity or living conditions are of concern. However, it is clear upon reading the Council's delegated officer report that these concerns relate to the impact of the proposal upon the outlook from the properties specified in the refusal reason. The main issue therefore is the effect of the proposed development upon the living conditions of occupiers of properties at 114 and 118 Wimbledon Hill Road, with particular regard to outlook.

Reasons

3. The existing dwelling at the appeal site, a mid-twentieth century dwelling of modern design, is set some way back from the roadside. Indeed, its front elevation is broadly level with the rear elevation of the neighbouring building at 114 Wimbledon Hill Road on one side, whilst to the other, No. 118 is set at 90° to the road and so the outlook from its 'front' elevation is towards the existing appeal property's flank elevation and across its front garden.
4. Although of modern, flat roofed design, the existing house at No. 116 is two storeys in scale and broadly similar in eaves level height to that of No. 118. No. 114 is substantially larger, with an elevated ground floor level and a second-floor level housed within a bulky mansard / crown roof. Due to the siting of the existing house on the appeal site, the lengthy flank elevation of No. 116 is a substantial factor in the outlook from the rear of No. 114. So too,

albeit offset to a degree, is the flank elevation in the outlook from the front of No. 118.

5. The replacement dwelling would be pulled away from the extremities of the site on either side of the appeal plot when compared with the existing dwelling's siting. Although the proposed dwelling would incorporate a substantial pitched roof its eaves level height would be lower than that of the existing flat roofed house. Together with stepped front and rear façades it is clear to me that the dwelling has been designed and sited in such a manner as to open up lines of sight from the two properties on either side.
6. Thus, in relation to No. 114, not only has the two storey flank elevation been pulled further away from the boundary between the two than that of the existing property, but its rearward depth at both ground and first floor level would also be less than the existing. As a consequence, the overall length of the flank elevation would be reduced, the height slightly less and the angle of outlook from the rear of No. 114 slightly increased. Additionally, as the eaves level would be slightly lower the immediately felt height of the proposed building would be less. Whilst I accept that the substantial pitched roof structure would add further height to the building, it would be a recessive feature which wouldn't be particularly felt from ground levels, and in terms of outlook from upper floor levels would be neither dominant nor overpowering.
7. Although the replacement dwelling would be sited further forward in the plot than the existing house, the main bulk and massing of this element would be directly adjacent to No. 114's substantial flank elevation which otherwise dominates this part of the site. There are windows on this elevation, at ground and first floor, but they do not appear to be to main habitable rooms and there would be no direct overlooking between the two properties.
8. The relationship between the proposed dwelling and No. 118 would be slightly more complex, given the orientation within its plot of the latter. However, as with the relationship with No. 114, the proposed dwelling would be situated further away from the neighbouring property at both ground and first floor than the existing dwelling, thereby opening up the line of sight marginally at the front corner and more significantly so at the rear.
9. Whilst the stepped nature of the proposed front elevation would incorporate a projecting two storey bay at the front, this would be on the far side of the plot from No. 118. Given that distance, I do not consider that it would be any more overbearing or dominant than the existing flank of No. 114 which is visible to No. 118 across the appeal property's front garden.
10. The additional height of the roof would be noticeable to a limited extent from ground floor windows, and more so from first floor windows. However, the existing and proposed eaves heights would be broadly comparable and the sloping roof a recessive visual feature. The proposal would therefore result in positive and negative impacts in terms of outlook from No. 118, thus requiring a balanced judgement to be made as to whether the proposal's impact would be sufficiently harmful to justify withholding permission. However, whilst the roof structure would contribute substantial height to the proposed dwelling's overall scale, its flank elevation would be noticeable further away from the front of No. 118. I am satisfied that the greater degree of separation between this flank and No. 118 would be sufficient to offset the greater overall height of the replacement dwelling's roof.

11. Policy DM D2 of the Council's Sites and Policies Plan (SPP) aims to achieve high quality design and protection of amenity within the borough. To achieve this, all development will be expected to meet a range of criteria, amongst which are that appropriate levels of sunlight and daylight are provided to existing and proposed buildings and gardens and new and existing development is protected from visual intrusion.
12. The proposed replacement dwelling would be a not insubstantial building on a site constrained by existing residential properties on either side. However, for the reasons I have set out above, I am satisfied that the proposal would not result in an unduly or visually intrusive form of development when experienced from existing residential properties on either side of it. Nor would it result in a particularly overbearing or enclosing form of development for occupiers of those properties. There would be no conflict with the stated aims of SPP policy DM D2 in terms of the protection of residential amenity and living conditions.

Conditions

13. I have considered the Council's list of suggested conditions in light of the Framework and Planning Practice Guidance. Where necessary and in the interests of precision I have altered or amended the wording of the conditions but I am satisfied that in such instances neither party's interests would be prejudiced.
14. I agree that in addition to time limit and plans conditions, which are necessary and reasonable in order to provide certainty, a materials condition is required in the interests of character and appearance. Whilst conditions should only be used to remove permitted development rights in very special circumstances, I am satisfied that a condition of the type suggested by the Council is necessary in the interests of the living conditions of occupiers of neighbouring properties with particular regard to privacy. Additionally, I have added a condition to ensure that those windows which are specified on the upper floor side elevations are fitted with obscure glazing in the interests of privacy. Although not suggested by either party, the windows in question serve en-suite bathrooms and so a condition of this nature would not be unexpected and would not prejudice either party.
15. Given the residential setting in which the appeal site is located, 'construction' conditions such as hours of site operation and noise levels are also necessary in the interests of living conditions, whilst the previously developed nature of the appeal site justifies the addition of ground contamination conditions. A condition regarding foul and surface water disposal would ensure appropriate means of drainage to minimise the risk from flooding, whilst one regarding works being carried out in accordance with basement and subterranean impact assessments would be appropriate given the basement element of the proposal and proximity to other buildings.
16. There are two suggested conditions which duplicate each other in part regarding site parking and deliveries and a Demolition and Construction Management Plan. Only one is necessary, and I have adopted the more detailed and comprehensive version of the condition, which is also the version recommended by the Council's Environmental Health.

Other Matters

17. I have had regard to the comments and submissions from occupiers of neighbouring and nearby properties to the planning application regarding matters of privacy and overlooking, basement stability and the provision of covenants. I consider that suitably worded conditions would address matters of privacy and overlooking to either side, whilst at the rear there is substantial distance between opposing rear elevations with vegetation between.
18. As the Council concluded that the proposal would not give rise to loss of privacy or overlooking to the rear, so too do I there being no compelling evidence to persuade me otherwise. The Council did not oppose the basement element of the proposal and, with suitably worded conditions, I have no reason to reach a different conclusion. Matters of the provisions of covenants are private matters between the parties to any covenant and are not therefore material considerations to which I am able to give any weight.

Conclusion

19. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

Graeme Robbie

INSPECTOR

Schedule of 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: EX_01; EX_02; EX_03; P_01; P_02; P_03; P_04; P_05; P_06; P_07; P_08; P_08A P_09; P_10 and P_11.
- 3) The facing materials to be used for the development hereby permitted shall be those specified in the application form unless otherwise agreed in writing by the Local Planning Authority.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no window, door or other opening other than those expressly authorised by this permission shall be constructed or installed in the side elevations without planning permission first being obtained from the Local Planning Authority.
- 5) The building hereby permitted shall not be occupied until the window on the upper floor side elevation shown on drawing number P_09 to be fitted with obscured glazing has been fitted with obscured glazing. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed, and once installed shall be retained as such thereafter.
- 6) No demolition or construction work or ancillary activities such as deliveries shall take place before 8am or after 6pm Mondays - Fridays inclusive, before 8am or after 1pm on Saturdays or at any time on Sundays or Bank Holidays.
- 7) No development approved by this permission shall be commenced until a detailed scheme for the provision of surface and foul water drainage has been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. The drainage scheme will dispose of surface water by means of a sustainable drainage system (SuDS) at the agreed runoff rate (no more than 2l/s), in accordance with drainage hierarchy contained within the London Plan Policy (5.12, 5.13 and SPG) and the advice contained within the National SuDS Standards.
- 8) Noise levels, (expressed as the equivalent continuous sound level) LAeq (10 minutes), from any new fixed external plant/machinery shall not exceed LA90-10dB at the boundary with any residential property or noise sensitive premises.
- 9) Any external lighting shall be positioned and angled to prevent any light spillage or glare beyond the site boundary.
- 10) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance in

accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

- 11) No development shall take place until a Demolition and Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the demolition and construction period. The Statement shall provide for:
- hours of operation
 - the parking of vehicles of site operatives and visitors
 - loading and unloading of plant and materials
 - storage of plant and materials used in constructing the development
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - wheel washing facilities
 - measures to control the emission of noise and vibration during construction.
 - measures to control the emission of dust and dirt during construction/demolition
 - a scheme for recycling/disposing of waste resulting from demolition and construction works.
- 12) The development hereby permitted shall be carried out in accordance with the Subterranean Impact Assessment dated 31/07/2019 and Basement Impact Assessment dated August 2019.