



Appeal Decision

Site visit made on 6 November 2020

by R Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 November 2020

Appeal Ref: APP/P5870/D/20/3249705

11 Glenthorne Gardens, Sutton SM3 9NL

- 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 S Downey against the decision of the London Borough of Sutton.
 - The application Ref DM2019/00622, dated 5 April 2019, was refused by notice dated 15 January 2020.
 - The development proposed is described as "retention of subterranean outbuilding."
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal relates to a partly retrospective application for planning permission. I saw from my site visit that the main structure, including the walls, of the subterranean outbuilding (the outbuilding) have been constructed, but there is no roof, windows or staircase. I have assessed the appeal on this basis.
3. In the banner heading above, I have used the description of development from the Council's decision notice and appeal form as this more accurately describes the development than the planning application form.

Main Issues

4. The main issues are:
 - The effect of the development on the character of the appeal site and surrounding area.
 - Whether the appeal development would be likely to increase flood risk to neighbouring properties.

Reasons

Character and appearance

5. No.11 Glenthorne Gardens (No.11) is a semi-detached house which has a relatively narrow, but long garden of around 45m in length. The eastern boundary of the garden is shared by a number of other houses on Glenthorne Gardens, whilst to the rear is the boundary with No.12 Forest Road. The outbuilding is located at the far end of the garden, largely screened from its

neighbours by the boundary fencing and mature, overgrown shrubs. Because of the typically long, well established gardens of Glenthorne Gardens at the rear of No.11 the character is verdant.

6. The outbuilding is around 2.3m in depth and is proposed to be finished, in part, with a grass roof that would cover the roof structure over a finished ceiling height of around 2.1m. I note the concerns of the Council's Principal Tree Officer about the feasibility of the proposed grass roof, but I consider there is a reasonable depth between the ceiling and surrounding roof structure to achieve a grass finish noting that different types of grass can tolerate different soil depths and drainage conditions.
7. The provision of the grass roof would mean that only the glazed roof lights and walkable grill, that provides access to the stairs, would be visible and these cover a limited extent of the overall structure. The building could therefore assimilate well into the surroundings of the garden of No.11 and would not be prominent from either No.11 itself or neighbouring houses. Consequently, subject to an appropriately worded planning condition, which includes the details and specification of the grass roof and its drainage, I am satisfied that there would be no harm to the verdant character or appearance of the area.
8. For these reasons, the appeal proposal would comply with Policy 28 of the Sutton Local Plan 2016-2031 (February 2018) (LP) because the outbuilding respects the local context and responds to local character.

Flood risk

9. The outbuilding is around 11m in length by around 3.7m in width and would be covered to a large part by a grass roof, which in terms of surface water run-off would perform in a similar way to a lawn. The small areas of flat, glazed roof lights and the walkable grill, shown as part permeable, would increase surface level run-off over the previous garden use. Given, however, the very limited extent of these elements the details of a scheme for the management of surface water runoff, including a Sustainable Urban Drainage System, could be controlled by a condition.
10. Turning to groundwater, the most recent drainage report submitted on behalf of the appellant (the April 2019 Report) refers to 'historical boreholes' that suggest the water table is approximately 5.2m below ground level, so below the depth of the outbuilding. The April 2019 Report does not provide any information as to the location of the boreholes, or their date. Further it states that the developer/builder would need to consider tanking and groundwater infiltration. Having regard to concerns of the Lead Local Flood Authority who consider that the area is affected by high groundwater levels that could lead to flooding, I find the information submitted in support of the proposals, to be insufficient to determine with any confidence that there would be no increase in flood risk.
11. I am aware of the comments of the previous Inspector who concluded that subject to appropriately worded conditions, the proposal could provide adequate drainage and that the flood risk in the area would be unlikely to increase. However, I saw from my own site visit that most of the outbuilding structure was full of water and I have read the objections from neighbours raising concern about recent standing water in their gardens, that did not exist before the outbuilding was constructed. From the information before me, I am

not aware if similar evidence was before the previous Inspector particularly as the subterranean element was covered at the time with a pitched roof building. Whilst the objections from neighbours is anecdotal evidence, combined with my own observations on site and the limited information before me regarding groundwater depths or infiltration, I am not satisfied that the outbuilding would not cause a risk of flooding to neighbouring houses, or indeed flood itself. Although mindful of the guidance at paragraph 54 of the National Planning Policy Framework (the Framework) that otherwise unacceptable development could be made acceptable through use of conditions, I am not satisfied that the risk could be mitigated through a planning condition in this case.

12. Consequently, the appeal proposal would conflict with the guidance at paragraph 163 of the Framework, London Plan Policy 5.12 and LP Policy 32 which require developments to not increase flood risk.

Other Matters

13. The appellant considers that because of the scale, size and height of the outbuilding it would benefit from permitted development rights arising from the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). However, I have been supplied with no plans or information to show how the proposal aligns with the limitations set out in the GPDO. As such, this matter attracts only very limited weight in the overall planning balance.
14. I note that the Framework promotes the effective use of land and that paragraph 118 promotes and supports the development of under-utilised land. I do not, however, find that the efficient use of land should result in the harm that I have found to flood risk or outweigh the conflict with the development plan.
15. Finally, I am aware of examples referred to as 'appeal precedents', pointed out to me by the appellant, where outbuildings have been permitted by the Council. Whilst I do not have full details or the specific circumstances of these cases, none relate to subterranean outbuildings and I do not therefore find them comparable to the case before me. I have therefore considered this appeal on its own merits.

Conclusion

16. Subject to appropriately worded conditions, the appeal proposals could make adequate arrangements for soft landscaping and surface water drainage. However, this does not outweigh the significant harm found to flood risk to existing and future occupiers of the neighbouring houses. No material considerations have been advanced of sufficient weight to justify a decision in this case, other than in accordance with the development plan.
17. Consequently, for the reasons set out above, and having taken all other matters into account, I conclude that the appeal should be dismissed.

R. Jones

INSPECTOR