

Appeal Decision

Site visit made on 6 July 2021

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2021

Appeal Ref: APP/P5870/D/21/3270995

24 Central Way, Carshalton, SM5 3NF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Salman Jamil against the decision of the London Borough of Sutton.
 - The application Ref DM2020/00241, dated 14 February 2020, was refused by notice dated 24 December 2020.
 - The application sought planning permission for the erection of a part one part two storey ground and lower ground rear extension incorporating terrace area, steps, balustrade and railings without complying with two conditions attached to planning permission Ref C2016/73527/HHA, dated 16 March 2016.
 - The conditions in dispute are Nos 3 and 4 which state respectively that: *The proposed ground floor balcony shall be flanked on the south and north elevations by an obscured glazed screen between 1.80 and 2.00 metres in height, so as to prevent direct overlooking into the neighbouring properties* and *The additional ground floor window(s) in the south elevation of the development hereby approved shall be glazed with obscure glass fixed shut in a manner that they cannot be opened and so maintained.*
 - The reason given for both conditions is: *To safeguard the current level of privacy enjoyed by the occupants of adjoining properties.*
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Appellant is seeking to be allowed the provision of 1.1m high clear glazing around the full perimeter of the revised terrace, a top hung part clear glass window with limited opening, and retention of the extension fenestration alterations from the originally approved drawings.

Main Issue

3. The main issue is the effect of the proposal on living conditions for neighbours.

Reasons

Living conditions

4. The appeal property and its neighbours have significant falls in ground level to the rear and the planned terrace would be both relatively elevated and projecting down the garden in comparison to much neighbouring
-

accommodation and principal outside 'sitting' amenity space. Total privacy will never be achieved in this scenario but it is beholden on the decision maker to reasonably safeguard a proportionate degree of privacy, or sense of privacy, for neighbours. To my mind the obscured glazed screens are the correct way to achieve this whilst still providing a useable terrace for the Appellant. To not have these 'blinkers' would be a serious incursion on privacy and lead to substantial scope for undue overlooking.

5. On housing layouts where rear building lines vary, ground is not level, and separation is not substantial there will always be scope for some overlooking from rear elevations. That is expected. What is not reasonable is an actual or perceived loss of privacy from any new side facing proximate and largely unscreened window set beyond the rear building line of a neighbouring property. I can entirely appreciate why the Council applied the disputed condition 4 for this reason and it was right to do so in my opinion. Anything otherwise would be a significant imposition and uncomfortable situation for neighbours.
6. Policy 29 of the Sutton Local Plan is relevant as it seeks to ensure that development does not have any undue adverse impact on adjoining properties. I conclude that this scheme would not comply in this regard. The Council's SPD4 'Design of Residential Extensions' (SPD) includes a similar objective. Whilst the SPD cannot be expected to cover every eventuality, I conclude that there would be conflict with its aims on this issue.
7. In all the circumstances it is my opinion that the disputed conditions are necessary parts of the planning permission ref C2016/73527/HHA.

Other matters

8. I understand the Appellant's wish to amend the approved scheme, sympathise with costs that might be incurred, and I do take the point that the required works might be seen as an enhancement over the situation which previously prevailed. However, I do not know the full background to the former terrace which was of a somewhat different disposition and I am not able to make a privacy assessment. In any event, I must be cognisant of the up-to-date planning policy base and reasonable residential amenity expectations of neighbours when change is to take place at an adjoining property. The reasons for the planning conditions might have been expressed differently but the value of the conditions stands.
9. I agree there will always be some inter-visibility between properties in a neighbourhood such as this but this does not negate the planning objective to minimise direct overlooking of more private areas on a property. Notwithstanding its position and height, I am not persuaded that there could be a 'compromise' on the side facing window; any clear glazing or opening ability would likely lead to increased direct or perceived overlooking. Similarly, I consider the type of balcony side screens described in the relevant planning condition to be a reasonable approach whereas suggestions, whether at less cost or not, such as trellis would not fully serve the necessary purpose.
10. I note one neighbour supports the Appellant's submission but I have to protect the amenity of dwelling houses and future occupants for the long term and in my judgement the terms of the original conditions are necessary to achieve this. I have carefully considered all the points raised by the Appellant but

these matters do not outweigh the concerns which I have in relation to the main issue identified above.

11. The National Planning Policy Framework has been considered and the development plan policy which I cite, and my decision on the necessity of the disputed conditions, mirrors relevant objectives within that document.

Overall conclusion

12. For the reasons given above I conclude that the appeal proposal would have unacceptable adverse effects on living conditions for neighbours. Accordingly, the appeal is dismissed.

D Cramond

INSPECTOR