



Appeal Decision

Site visit made on 6 July 2021

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State.

Decision date: 23 July 2021.

Appeal Ref: APP/A5840/D/20/3266064

39 Bowen Drive London Southwark SE21 8NS

- 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 Mohammad M Ahmed against the decision of the London Borough of Southwark.
 - The application Ref 20/AP/1175, dated 23 April 2020, was refused by notice dated 30 June 2020.
 - The development proposed is the demolition of existing single storey side extensions, construction of new single storey side, retention of rear side extension and wall to the front of property.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal, the National Planning Policy Framework 2021 (the Framework) was published on the 20 July 2021 which supersedes the 2019 version. The planning application was not refused on the basis of the Framework, however any references made to the Framework will be from the most recent 2021 version.
3. The Reason for Refusal on the Council's Decision Notice makes reference to policies of the London Plan 2016, which has been superseded by the London Plan, March 2021. The Council were asked for further comments with regards to this change in policy position¹, and a response was received by the Council with the relevant policies that they feel should be considered in the determination. As such, I shall make my decision on this basis and only refer to the updated London Plan 2021 within this letter.
4. I note discussion in the appeal documents with regards to the existing extensions and boundary walls on the site and whether these extensions and alterations are lawful. It is not for me under a Section 78 appeal to determine the current correct and legal development of the existing extensions or the wall. I have therefore made my decision on the basis of the existing conditions I experienced on my site visit and the information as part of the appeal. To that end it is open to the Council to pursue enforcement action, or for the applicant to apply for a determination under sections 191/192 of the Town and Country Planning Act if they believe the lawful development is different. My determination of this appeal under s78 does not affect the issuing of a determination under s191/192 regardless of the outcome of this appeal.

¹ Email from Planning Inspectorate to Croydon Council, Dated 8th July 2021.

5. There are discrepancies between the application form, the submitted plans and the Council's Decision Notice. It would appear that the Council has sought to add additional items to the planning application in order to regularise elements such as the front boundary wall and single storey side extension to the rear, however, the wall is not noted on the plans or the application form; and whilst the single storey rear extension is noted on the application form, it is not noted on the proposed plans. Despite this, the applicant has written these additional elements on their appeal form as the description of development and has provided some discussion on these elements in their Statement of Case (SoC). As such I have taken the description of the development from the Council's Decision Notice which is also noted on the appeal form and will make my decision on that basis.
6. In the Council's Decision Notice there are references to the Emerging New Southwark Plan (EMSP) which when adopted would replace the saved policies of the Southwark Plan 2007 (SP) and the Core Strategy 2011 (CS). In my application of paragraph 48 of the Framework, whilst the New Southwark Plan is not part of the adopted development plan, it is currently undergoing examination and has been subject to comments from the examining Inspector. I am also mindful that the examining Inspector may wish to re-open the examination to hear further evidence which could result in further changes and additions to emerging policies and accompanying text. Based upon this, I will afford the New Southwark Plan limited weight in this appeal decision.

Main Issues

7. Taking the above into account, the main issues are the effect of the development upon:
 - the existing dwelling, including the character and appearance of the surrounding locality;
 - The living conditions of current and future occupants, with particular regard to outlook and provision of private garden space; and
 - The effect of the development upon a tree on the neighbouring property.

Reasons

Character and appearance

8. The appeal site is located along Bowen Drive, a residential street that contains a school to one side, and to the other where the appeal site is located, contains pairs of two storey semi-detached dwellings and groups of 4-5 terraced dwellings which all appear to date from the mid-late twentieth century. The dwellings have similar simple and functional design elements, with some dwellings exhibiting later alterations and extensions, however a symmetry exists between pairs of semi-detached dwellings. There is a clear visual gap between properties where in many cases the tops of large mature trees can be seen between the gaps, which together with vegetated front gardens, boundary hedges and street trees contains a well vegetated streetscape. These elements displays a number of positive qualities which are experienced within the locality, which reinforces the local character and distinctiveness of the area.
9. The appeal site does incorporate some of the positive characteristics of the area being one of the mid-twentieth semi-detached dwellings, and visual gaps

and spaces in and around the property with large trees nearby, particularly the neighbouring tree close on the neighbour's site which overhangs the appeal site. However, the appeal site has also had a number of existing extensions such as a hip-to-gable roof extension, two storey addition which is setback from the host building and further single storey side extensions to the front and rear of the property.

10. Saved Policy 3.13 of the Southwark Plan 2007 (SP) and Strategic Policy 12 of the Southwark Core Strategy (CS) are specifically related to design and character and seeks that proposals should be of high quality and should respect the development pattern, layout, siting, scale height, massing and density, amongst others. These policies are also in general conformity with the London Plan 2021 Policy D4 – Delivering Good Design. The Local Development Plan Policies are also supported by a Residential Design Standards Supplementary Planning Document (2015 Technical Update) (SPD) which contains guidance with regards to extensions to existing dwellings. The SPD gives advice on elements such as ensuring development is proportionate and does not dominate the host building, and has suitable materials. In particular to side extensions the guidance seeks that the developments should have matching roof forms, and avoids infilling of gaps in between properties where this is an important townscape feature.
11. I appreciate that the proposed extension to the front of the property is single storey and would not be as wide as the existing single storey side extension, however the complete width of the side extensions includes a two storey component and a single storey component which would be approximately double the width of the existing dwelling. I appreciate that the proposal would be less than is currently existing, however this difference is marginal. Whilst there is a variance in height and setback of the extensions, the overall massing and width of the extensions erodes the visual gap between the dwellings and causes a dominance in form and scale which gives an unbalanced, overcomplicated and incongruous appearance within the street scene and which affects the architectural integrity and authenticity of the existing building.
12. Turning to the wall along part of the front of the dwelling, it is quite tall and runs in close proximity to the front of the property. I appreciate comments from the applicant's SoC that the wall was in situ when they purchase the property, however, there has been additional courses of brickwork and render added to the top of the wall. The wall is very close to the windows and runs in front of the property and presents an enclosed and defensive appearance, rather than the open spaces in and around the buildings along this road which is a positive characteristic of the locality. The wall does have an awkward appearance that does not reinforce the local distinctiveness of the locality.
13. Consequently, and in conclusion of this matter, the proposed scheme would be contrary to Saved Policy 3.13 of the SP and Strategic Policy 12 of the CS as described above, and which is supported by the SPD. The scheme would also be in conflict with London Plan 2021 Policy D4 – Delivering Good Design.

Living Conditions

14. The Reason's for refusal raise two concerns with regards to living conditions; firstly the provision of private rear garden space, and secondly involving outlook caused by the proposed extensions.

15. With regards to the provision of private amenity space, there is no discussion within the Planning Officer's report with regards to an assessment of size of private garden space and its appropriateness towards this dwelling after the construction of the extension, nor do the policies stated give any further advice with regards to garden sizes. In the Applicant's Design and Access Statement which was submitted with the application, it is stated that the dwelling would retain 104 square metres of private open space which is 62.24% of the original dwelling's private garden space provision.
16. I note that the proposed extensions are a study and a W/C and that the proposal does not add additional bedrooms to the property which would increase the level of occupancy and any requirement to increase or retain a certain amount of private garden space. Having visited the site, whilst I agree with the Council that the side extensions do take away the side private garden space, this side garden area is quite narrow and not as useable as the space to the rear. Taking this into account, I am not persuaded that the loss of side garden in this circumstance would result in adverse detriment to existing and future occupier's living conditions as a result of provision of private garden space.
17. Turning to outlook, the proposed extension to the front/side of the property would be utilised as a study and contain a window to the front and rear of the building. The windows are quite small, with the front window being in very close proximity to the boundary wall located along the front of the extension. The wall is clad in render and is a solid, blank and tall feature which does restrict any type of outlook from the study. The outlook gained from the extension would be very poor and would result in detriment to the existing and future occupant's living conditions as a result.
18. In conclusion on this matter, whilst I am not persuaded that the living conditions are harmed by the provision of private garden space; in terms of outlook, the proposal would not achieve an acceptable level of outlook. The proposal would therefore not be in accordance with SP Saved Policy 3.12 (which seeks that design result in high amenity environments). I note the Reason for Refusal in relation to this matter references SP Saved Policy 3.13 (which seeks good urban design); and CS Strategic Policy 12 (which contains overarching strategic policies regarding the historic environment, views and the Thames), however these policies are not relevant to the assessment of living conditions.

Effect on the neighbouring Tree

19. The Council's Reasons for Refusal state that the application failed to assess the impact upon a protected tree at the neighbouring property at 41 Bowen Drive. The appeal documents do not illustrate how the tree is 'protected;' for example, by means of a Tree Preservation Order. The Planning Officer's report also makes no reference to the tree having any type of formal protection but has concerns with regards to the current construction under the crown of the tree and the disturbance made to the root zone as a result of the existing and proposed re-construction of the side extension.
20. The existing tree is mature and whilst it sits in the neighbouring property, the tree overhangs the appeal site. The tree does provide a good level of amenity and is a positive feature to the character and appearance of the locality.

21. In the applicant's SoC they are willing to have a tree survey undertaken and to undertake the recommended actions given within such a tree survey. Based on the level of information before me, in this case I find that a planning condition seeking the approval of a tree survey and its recommendations would be a suitable solution which would overcome this reason for refusal.
22. Consequently, and in conclusion of this matter, subject to condition, the proposal would be made in accordance with SP Saved Policy 3.28 which seeks to protect and enhance biodiversity, and saved policy 3.2 which seeks to protect the amenity of the locality. The Reason for Refusal in relation to this matter mentions CS Strategic Policy 12 (which contains overarching strategic policies regarding the historic environment, views, and the Thames) and Strategic Policy 13 (which contains overarching policy on sustainable design and construction techniques), however they are not relevant to the consideration of this effect of the tree in question.

Conclusion

23. Whilst I have sided with the applicant with regards to the reason for refusal regarding the tree, and the provision of private open space; this is not sufficient to outweigh the concerns with regards to the design of the scheme and its detrimental impact towards living conditions as a result of outlook.
24. Considering the scheme as a whole against the development plan, the appeal is dismissed.

J Somers

INSPECTOR