



Appeal Decision

Site Visit made on 08 November 2021

by Mark Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2021

Appeal Ref: APP/T5720/W/20/3264871

19 Robinson Road, Tooting, London SW17 9DQ

- 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 Miss Kate Wignall against the decision of the Council of the London Borough of Merton.
 - The application Ref 20/P2541, dated 11 August 2020, was refused by notice dated 14 October 2020.
 - The development proposed is described as 'Proposed external stair access from first floor flat'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In March 2021, the London Plan 2021 (LP) was adopted and its policies replaced those within the London Plan 2016, including Policies 7.4 and 7.6 referred to in the Council's reason for refusal of planning permission. The main parties were given the opportunity to comment on the relevance of this to the appeal. I have had regard to any comments received and the new LP in my decision.
3. A revised National Planning Policy Framework (the Framework) was published on 20 July 2021. I have determined this appeal in the context of the revised Framework, on which the parties have been given the opportunity to comment.

Main Issues

4. The main issues are the effect of the development, firstly, on the living conditions of neighbouring occupiers with regard to privacy, noise, daylight, sunlight and outlook; and secondly, on the character and appearance of the host property and the surrounding area.

Reasons

Living conditions

5. The appeal property is a first floor flat within a terrace of properties located on the northern side of Robinson Road. At the rear there is a modest yard which is only accessible from the front of the property. As well as a ground floor flat below, there are neighbouring properties on either side and to the rear on East and West Gardens. The property therefore has a particularly close relationship with neighbouring dwellings.

6. The appeal proposal relates to an external spiral staircase which would provide access from the kitchen of the first floor flat to the rear garden, both as a means of access to the garden and as an additional exit in case of emergencies. In order to provide access onto the staircase, the existing kitchen window would be converted into a door. The proposed staircase would comprise a steel frame and railings with a platform above one of the windows serving the ground floor flat.
7. Due to its elevated position and proximity to the side boundaries, the proposal would allow views into the rear gardens of neighbouring properties on either side of the site. The proposal would therefore result in a loss of privacy in respect of these neighbouring occupiers. During my site visit I observed that views of these neighbours' gardens were already possible from the existing kitchen window of the first floor flat and that in general there was a degree of mutual overlooking between the windows of neighbouring properties and their gardens. However, the proposal would have the clear potential to result in additional levels of overlooking compared to inevitably more obscured and partial views through a window. In a location such as this, with relatively good levels of privacy in rear gardens, such effects would likely be marked and adverse.
8. When in use the proposal would be likely to result in noise disturbance to the neighbouring occupiers on either side of the site and the ground floor flat due to its elevated position and metal construction. The use of the proposed staircase would likely be highly noticeable due to its elevated position and metal construction. This would be especially intrusive for the occupiers of the ground floor flat, particularly during warm and dry weather, when the windows are more likely to be open.
9. Although the maximum height of the proposal would be around 4m, it would not project significantly from the rear wall of the building. Given the modest dimensions of the proposal and its lightweight design, it is unlikely that it would result in any significant loss of daylight, sunlight, outlook or be visually intrusive in respect of the neighbours. The platform would be positioned above one of two windows serving the ground floor flat and the staircase would project partly across both. However, these windows are fitted with obscure glazing. There would not be any unacceptable loss of light or outlook in respect of this neighbour's windows.
10. During my site visit I observed an existing external staircase located within close proximity of the appeal site at the rear of No 9. According to the Council, it was erected without planning permission. It is positioned at the end of the terrace and is of a slightly different design to the appeal proposal. The appellant also refers to other external staircases within the surrounding area. However, I do not have the substantive details of these cases before me to enable me to draw any comparisons with the appeal proposal, and each inevitably has design considerations and a surrounding context specific to it rather than to the appeal site. I must determine the appeal on its own merits in accordance with the requirements of the current development plan, and I have found that there would be harm, in this particular case, to the living conditions of the neighbouring occupiers.
11. There are no substantive details of any measures to mitigate the harm that I have identified. I am not convinced that a privacy screen would be sufficient to

prevent views from the staircase over a large part of the neighbours' rear gardens.

12. I therefore conclude that the development proposed would harm the living conditions of neighbouring occupiers having regard to its effect on privacy and the potential for noise disturbance. It would therefore be contrary to Policies DM D2 and DM D3 of the Merton Sites and Policies Plan (2014) (SPP) and Policy D3 of the LP. These policies seek to ensure, amongst other things, that new developments do not diminish the living conditions of existing residents and deliver appropriate privacy and amenity.

Character and appearance

13. The appeal property lies within a mainly residential area, with a surrounding area characterised predominantly by two storey semi-detached and terraced dwellings of varying designs. Properties tend to be set back a short distance from the pavement with small front gardens behind low boundary walls or fences. Whilst the rear elevations are relatively plain in appearance, the front elevations are generally more decorative with two storey bays, larger windows and porches. Although there is a mixture of external materials, including pebble dash and render, brickwork and tiled roofs, the road has a cohesive character.
14. The existing external staircase at No 9 forms part of the character and appearance of the area and is more prominent than the appeal proposal would be due to the position of No 9 at the end of the terrace at the junction with West Gardens. In addition to the existing staircase, I observed that there are other items of visual clutter in the immediate area, including telegraph poles, lampposts, road signs, high boundary fences, TV aerials and satellite dishes. In this context, the proposal would not appear intrinsically out of character. It would not dominate the appearance of the host property given its lightweight design, which would continue to allow views through to the rear wall of the property.
15. Furthermore, due to its siting at the rear of the terrace, the appeal proposal would not be highly visible from public views. Glimpsed views of the proposal would be possible from both East and West Gardens. However, dividing boundary fences to the rear of the terrace would partially screen the proposal from these vantage points in a visual sense and it would also be seen in the context of the existing staircase at No 9. I therefore find that the proposal would not unacceptably harm the character or the appearance of the area.
16. For the above reasons, I conclude that the development would not be harmful to the character and appearance of the host property or the surrounding area. It would therefore not conflict with Policy CS14 of the Merton Core Strategy (2011), SPP Policies DM D2 and DM D3 and Policies D3 and D4 of the LP. These policies seek to ensure, amongst other things, that new development is of high quality design which respects local character.

Other Matters

17. The proposal would provide an additional escape route from the first floor flat in the event of a fire. However, there is no technical evidence to demonstrate the need for the proposal or that it is the only approach to achieving this benefit. I recognise that the proposal would provide enhanced access to and

use of the appellant's garden, and that the proposed double glazed door would be likely to improve the energy efficiency of the property, but these considerations do not outweigh the harm I have identified to the living conditions of neighbours.

18. I am mindful that no objections have been received from neighbouring residents in relation to this proposal, but this does not outweigh the harm that I have identified.
19. The appellant indicates concerns with the way the Council has handled the application. However, that is a procedural matter which does not impact on my assessment of the planning merits of the case.

Conclusion

20. Although I have found that the development proposed is acceptable in relation to its effect on the character and appearance of the host property and the surrounding area, I have also found that the proposal would cause unacceptable harm to the living conditions of the neighbouring occupiers. As such, the proposal is contrary to the development plan as well as the Framework, and there are no other material considerations of sufficient weight to indicate a decision be taken other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

Mark Ollerenshaw

INSPECTOR