



Appeal Decision

Site Visit made on 26 October 2021 by A Coombes

Decision by K Taylor BSc (Hons) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 December 2021

Appeal Ref: APP/T5720/D/21/3277718

Site Address: 22 Mayfield Road, LONDON, SW19 3NF

- 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 and Mrs Kai Chong against the decision of the London Borough of Merton Council.
- The application Ref 20/P3547, dated 19 November 2020, was refused by notice dated 7 April 2021.
- The development proposed is the erection of a roof extension providing additional mezzanine level and single storey side extension.

Decision

1. The appeal is allowed, and planning permission is granted for the erection of a roof extension providing additional mezzanine level and single storey side extension at 22 Mayfield Road, London SW19 3NF in accordance with the terms of the application, Ref 20/P3547, dated 19 November 2020, and the plans submitted with it, subject to the following conditions:
 - 1) The development shall begin no 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: the site location plan, PR.PS Revision F, PR.EE Revision D, PR.P0 Revision F, PR.PM Revision F, PR.EN Revision C, PR.PR Revision F, PR.S1 Revision B, PR.S2 Revision C, PR.S3 Revision A, PR.ES Revision E, PR.EW Revision E (all dated November 2020).
 - 3) The development hereby permitted shall be carried out in accordance with the Arboricultural Planning Report, prepared by Crofton Trees Ltd. Arboricultural Consultants Ref. CTL apr 20012-02, for the protection of the retained trees as outlined in Section 5 of the report.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). I have had regard to this as a material consideration however, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. The main parties were provided an opportunity to comment on the updated Framework. No response was received from the appellant and the

Council have confirmed that the alteration does not impact upon the submitted appeal.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the living conditions of the neighbouring occupiers, with regard to privacy; and
 - trees within the site (specifically 3 Silver Birch trees, T1, T2 and T3).

Reasons for the Recommendation

5. The appeal site is a detached bungalow constructed of brick with a tiled pitched roof and surrounded by mature vegetation. The building is not listed, it is located behind other dwellings within the John Innes Wilton Conservation Area (JIWCA). The surrounding area is characterised by a mix of traditional terraced, semi-detached, and detached dwellings on tree-lined streets. The proposal seeks to introduce a roof extension that would allow for additional accommodation and to erect a single-storey extension.

Living Conditions

6. The existing dwelling is surrounded by mature vegetation and occupies a discreet position, enclosed by the rear gardens of properties on several nearby roads, including Kingswood Road and Wilton Grove. Due to the terraced nature of these properties a degree of overlooking, which is typical within this setting, already exists. All of the neighbouring gardens are overlooked from upper floor windows within neighbouring properties. Whilst the development would introduce overlooking from windows at a higher level than currently exists from the appeal site, due to the nature of the area the development would not harmfully increase overlooking or loss of privacy.
7. Evidence from the appellant indicates that the proposed development would be set at a distance of at least 20m from the rear elevations of properties on Kingswood Road. It is noted that the uplift in built form and layout of windows would allow for overlooking, particularly towards 36 and 38 Kingswood Road. However, the development would be at an acceptable and typical separation distance for an urban area and would not cause undue harm.
8. The evidence provided by the appellant also indicates that there would be similar separation distances from the rear elevations of properties on Wilton Grove. This would be adequate given the nature of the area and the overlooking that already exists between neighbouring properties.
9. For the reasons given above, the development would not cause harm to the living conditions of the neighbouring occupiers on Kingswood Road and Wilton Grove. Therefore, it would comply with Policy DM D2 and Policy DM D3 of the Merton Council Sites and Policies Plan, adopted 2014 (SPP) and Policy CS14 of the Merton Borough Council LDF Core Planning Strategy (CS), adopted 2011. Together these Policies seek to ensure that alterations to properties do not diminish existing living conditions and new development ensures a provision of quality of living conditions and privacy. The Council have cited Policy D4 of the London Plan (LP), adopted 2021, however the Policy is strategic in nature with

a focus on matters of process and design scrutiny rather than site specific living conditions issues.

Trees

10. The appeal site is abundant with various trees and hedges and, as it is located within the JIWCA, these are considered to make a positive contribution. Three Silver Birch trees, identified on the plans as T1, T2 and T3 are located in close proximity to the ground floor study extension. An Arboricultural survey has been undertaken on behalf of the appellant and this identifies the root protection area of these trees and the measures that will be carried out to mitigate harm.
11. It is acknowledged that the Council's Tree Officer has expressed concern over various issues that could lead to the removal of the Silver Birch trees. However, there is a lack of evidence that the trees would be adversely affected, and the Arboricultural Report provides sufficient evidence pertaining to their retention. Therefore, I am satisfied that the development would preserve the JIWCA with regard to the trees. Furthermore, a condition could be attached to ensure that protective measures are adhered to.
12. For the reasons given above, the proposed development would not cause harm to trees within the site (specifically 3 Silver Birch trees, T1, T2 and T3). It would therefore comply with Policies DM D4 and DM O2 of the SSP, Policy CS14 of the CS and Policies G7 and HC1 of the LP. Together these Policies require that all development protects trees and landscape features, with particular emphasis on preserving those within conservation areas or relating to heritage assets.

Other Matters

13. The proposed development does not take specific design reference from nearby properties in terms of character and appearance. However, the appeal site occupies a discreet position and therefore the development would not cause any harm to the wider character of the area and it would be acceptable within its setting. I also note that the Council found the development acceptable in this respect and overall, it would preserve the character and appearance of the JIWCA.
14. A single Leyland Cypress hedge has been scheduled for removal at the appeal site. However, the submitted evidence indicates it is an unviable specimen that would need to be removed regardless of the development and therefore its loss holds no weight in considering this appeal. National planning policy encourages net gains for biodiversity where they are measurable. This development represents an extension to an existing single dwelling and, therefore incorporating small potential enhancements such as swift bricks would not be necessitated by the development nor is there any evidence that any net gains would be measurable.
15. Several objections relate to restrictions in respect of a covenant on the appeal site. However, such matters are not determinative in a planning appeal.

Conditions

16. In addition to the standard time commencement condition, a condition should be attached to ensure that the development is built in accordance with the submitted plans. These plans include adequate details about the proposed materials and therefore I do not find it necessary to attach a condition for the appellant to submit further materials specifications, as the Council have suggested. Likewise, as a detailed report relating to the protection of trees has been provided, there is no need to attach the three conditions suggested by the Council. However, a condition should be attached that requires that the appellant follows the process as set out in the report to ensure that the trees are protected.
17. The Council have suggested the removal of future permitted development rights. However, no such development that could be related to this appeal would cause undue harm and, in line with the Planning Practice Guidance, this condition is not considered reasonable or necessary. As outlined in the recommendation, the appeal site is sufficiently separated from neighbouring properties. Therefore, it is not necessary to attach conditions relating to the opening or glazing of windows.
18. Given that this appeal relates to alterations to a single dwelling, disruption during construction should not be of an unacceptable level and the hours of operation and deliveries do not need to be controlled by condition. Implications relating to the storage of materials on the highway is a matter for the Council as Local Highway Authority and not directly related to the planning merits of the case. Therefore, it does not need to be controlled by a planning condition.

Conclusion and Recommendation

19. The proposal would accord with the development plan when taken as a whole. For the reasons given above, and having had regard to all other matters raised, I recommend that the appeal should be allowed.

A Coombes

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

K Taylor

INSPECTOR