



Appeal Decision

Site visit made on 21 June 2022

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6TH July 2022

Appeal Ref: APP/Z5630/D/22/3296552

14 Balaclava Road, Surbiton, KT6 5PN

- 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 Ms Joanna Kheir against the decision of the Royal Borough of Kingston Upon Thames.
 - The application Ref 21/03760/HOU, dated 24 November 2021, was refused by notice dated 20 January 2022.
 - The development proposed is for the demolition of existing rear and side single storey additions and erection of side return and side infill ground floor extensions. Erection of a first floor extension. Alteration of the existing garage roof. Addition of new side and rear openings at first and loft level. erection of two storey side extension and single storey rear extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupiers of 12 Balaclava Road (No.12), with regard to visual impact, daylight and sunlight.

Reasons

3. The appeal site is located within the Victoria Avenue Conservation Area (VACA). The VACA is a small residential conservation area which is characterised by uniformly sited two and a half storey detached and semi-detached Victorian and early Edwardian villas constructed from limited designs and palettes of materials. The villas are set back from the tree lined streets behind small front gardens and have deep rear gardens. The soft planting within the gardens and the streets add to the traditional suburban and spacious character and appearance of the VACA. These features all contribute to the significance of the VACA.
4. The appeal dwelling is located on the northwest edge of the VACA, at the end of a row of semi-detached two and a half storey Victorian villas. On the other side of the appeal dwelling is pair of more recent two storey semi-detached houses.
5. The appeal building is constructed from red brick under a plain tiled hipped roof, with catslide features. There are triangular dormer windows and bay windows on the front elevation and to the side of the appeal dwelling is a white

painted flat roofed garage. To the rear the appeal dwelling has a two storey wing with a gable roof and a single storey extension which wraps around the rear and part of the flank elevation of the projecting wing. This single storey extension has a shallow pitched roof, which is visible from the street scene, above the flat roof of the garage.

6. With the proposal a catslide roof would be formed over the existing side extension and the gap between this extension and the garage would be filled. A false pitched roof would run along the side of the dwelling and the front of the garage, where it would join the roof canopy over the porch. The flat roof behind the false pitch would comprise a green roof within a modular tray system. A small part of the proposed catslide roof would also be visible from the street scene, where it would follow the line of the hipped roof of the front dormer.
7. On the opposite side of the existing rear projection would be a modest sized single storey extension with a steeply pitched mono-pitched roof to reflect the pitch of the proposed catslide roof. To the front of the resultant rear projection would be a single storey extension with a flat green roof.

Living conditions

8. Amongst other things policy D3 of The London Plan and policy DM10 of the Royal Borough of Kingston Upon Thames Local Development Framework Core Strategy 2012 (LDF), seek to ensure that regard is given to the occupiers of neighbouring properties and that appropriate outlook, sunlight and daylight is achieved.
9. The plain gable wall of the existing single storey rear/side extension forms a continuous built line with the existing boundary wall between the appeal dwelling and No.12. The flank wall of this extension is approximately four metres in depth and projects beyond a solid entrance door in the side elevation of No.12. It is taller than the proposed single storey side extension, whose shallow mono-pitched roof would be hipped away from No.12.
10. Towards the front of the appeal dwelling is an attached flat roofed garage which projects onto the existing boundary wall and whose guttering overhangs the boundary with No.12. The flank wall of the existing garage sits opposite a modest sized secondary bedroom window at No.12. The main window that serves the bedroom is unobstructed and faces towards Balaclava Road. With the proposal the depth and height of the garage building would be increased. It would have a sedum flat roof enclosed by a false pitched roof, which would be hipped away from the boundary with No.12.
11. The gap between the existing garage and rear/side extension comprises an enclosed yard area, which is over six metres deep and some two metres wide. The majority of the existing boundary wall along this stretch of the boundary with No.15 is approximately one metre high. The study window and an entrance door at No.15 face towards this yard area.
12. The proposed single storey side extension includes the extended garage, whose roof would be hipped away from the boundary with No.12. Attached to the rear would be a slightly lower single storey extension, with a mono-pitched roof, which would project up to the rear building line of the existing single storey rear extension. All parts of the resultant extension would sit on the line

- of the existing boundary wall, although the eaves and guttering are designed to prevent any part of the extension from overhanging the boundary with No.12.
13. The appellant has submitted a daylight and sunlight report, which has been prepared in accordance with British Standard BS 8206: Part 2: Light for Buildings – Code of Practice for Daylighting. The report sets out the results of the daylight and sunlight assessments for the two ground and two first floor windows in the adjacent flank elevation of the flats at No.12. It concludes that in relation to all four windows the proposal is compliant with the BRE recommendations for daylight and sunlight. Also, that with the proposal, the sunlight within the rear garden at No.12 would be unchanged.
 14. Having regard to the juxtaposition between the two dwellings, their orientation and the size, form and proximity of the existing and proposed extensions, I have no reason to disagree with these findings. In addition, one of the existing ground floor entrance doors serves the entrance to the first floor flat and the other, which serves the ground floor flat, has minimal glazing and is located within a porch. For these reasons I find that the proposal would not result in a material and unacceptable loss of daylight or sunlight for the occupiers of the adjacent flats at No.12.
 15. Regarding visual impact, the ground floor study window is located opposite the existing enclosed yard on the appeal site. Although this yard area is only a couple of metres wide and the outlook from the study window is towards the main flank wall of the appeal dwelling, the courtyard provides some relief from the sense of enclosure created by the various flank walls of both properties.
 16. With the proposal the flank wall of the resultant extension would sit on the line of the existing boundary wall and a small stretch of it would be close to the study window. As a result, the direct outlook from this one window would be oppressive and overbearing. It would have a material enclosing impact within the room it serves, which would unacceptably harm the living conditions of the occupier(s) of the adjacent ground floor flat at No.12. This harm could not be satisfactorily dealt with by condition and would outweigh the benefits for the appellant and their family that would result from the proposed additional floor area.
 17. Conversely, one of the entrance doors serves the entrance to the first floor flat and the other has limited glazing and is located within a porch. The side bedroom window already faces directly towards the adjacent flank wall of the existing garage and that room benefits from an open outlook over the front garden from its main larger window. For these reasons the proposal would not have a materially harmful impact on the outlook from the ground floor bedroom or the entrance doors.
 18. Finally, the outlook from the existing first floor windows in the flank wall of No.12 would be very little changed with the proposal.
 19. I conclude on the main issue that due to the proximity of the study window to a short stretch of the resultant flank wall of the single storey extension, the proposal would be visually overbearing and would unacceptably harm the living conditions of the occupiers of the adjacent ground floor flat at No.12. Accordingly, the proposal would conflict with policy D3 of the London Plan and LDF Policy DM10.

Other matters

20. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that when assessing proposals for new development within a conservation area, special attention shall be paid to the desirability of preserving or enhancing its character or appearance. Section 16 of the National Planning Policy Framework 2021(framework), states that when considering the impact of a development on the significance of a designated heritage asset great weight should be given to its conservation. Any harm requires clear and convincing justification. Where a proposal would lead to less than substantial harm to a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In addition, any harm to a non-designated heritage asset should be taken into account, and a balanced judgement is required having regard to the scale of any harm and the significance of the heritage asset.
21. Policies HC1 of The London Plan and policies CS8 & DM12 of the Royal Borough of Kingston Upon Thames Local Development Framework Core Strategy 2012 (LDF), are consistent with this. Amongst other things Policy D3 of the London Plan and LDF Policy DM10 require high standards of design which reflect and respect their surroundings.
22. Due to its mass, form, design detailing, fenestration and materials I find that, visually, the proposal has been sensitively and imaginatively designed. It would respect and reinforce the character and appearance of the host dwelling, the street scene, the rear garden environment and would not have a terracing effect. The proposal would also preserve the character and appearance of the VACA and would not detract from its significance. In these respects, the proposal would comply with LDF Policies CS8, DM10 & DM12, policy D3 of The London Plan and sections 12 & 16 of the Framework.
23. Finally, I note that due to the narrow width of the access path at No.72 it could be difficult moving large objects into and out of the flats accessed from it. The proposed flank wall along the boundary would add to the level of enclosure above the height of the existing boundary wall, in the vicinity of one of the entrance doors. It is not unusual for tall boundary walls/fence to run along side boundaries where there are entrance doors and in this instance the impact of the proposal would be partially offset by the removal of the overhanging guttering within the front section of the path. Accordingly, this is not a matter which would weigh against the appeal proposal.

Conclusion

24. Whilst I have found in favour of the appellant on most issues, the conclusion on the main issue represents a compelling reason for dismissing this appeal.

Elizabeth Lawrence

INSPECTOR