



Appeal Decision

Site visit made on 1 August 2022

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th August 2022

Appeal Ref: APP/T5720/D/21/3289255

31 Edmund Road, Mitcham CR4 3AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr & Mrs Ganesalingam against the decision of the Council of the London Borough of Merton.
 - The application Ref 21/P3200, dated 31 August 2021, was refused by notice dated 11 October 2021.
 - The development proposed is a ground floor rear extension of 6.0m.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Schedule 2, Part 1, Class A, Paragraph A.4(7) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) states that *'where any owner or occupier of any adjoining premises objects to the proposed development, the prior approval of the local planning authority is required as to the impact of the proposed development on the amenity of any adjoining premises'*.
3. Therefore, the main issue is the effect of the proposed development on the amenity of any adjoining premises, with particular regard to the living conditions of neighbouring occupiers in terms of natural light and outlook.

Reasons

4. The appeal building is a 2-storey, semi-detached house on the western side of Edmund Road. The appeal building is accessed via a gated passageway to the side, with a timber panelled fence, some 1.6 metres high, marking the boundary with No 29 next door along this passageway and extending a short distance into the rear garden. No 29 has a similar access passageway on its side of the boundary fence.
5. I do not recognise the description of the side boundaries of the appeal site in the appellant's Statement of Case. There is no 1.8m high solid timber fence along both rear side boundaries, rather an open chain-link fence some 1.0 metres high along most of their lengths, supplemented with planting.
6. Whilst not shown on the existing drawings, there is a single-storey, flat-roofed, pergola-type construction that is the width of the original building and projects some 3.0 metres from its rear elevation. The pergola is open on two of its sides

- but has solid panelling adjacent to the contiguous next door dwelling, No 33, roughly due north.
7. The proposed development would entail the construction of a single-storey flat-roofed extension to the rear, the same width as the original dwelling. It would extend a distance of some 6.0 metres from the rear elevation.
 8. Edmund Road is aligned on a generally north-south axis. Consequently, the proposed development would not affect the occupiers of No 29, to the south, in terms of reduced natural light. The proposed extension would be visible from the rear of No 29 through and above the boundary planting. However, the two side access passageways provide sufficient separation, so that the size, massing and position of the proposed extension would not cause a significant loss of outlook for the occupiers of No 29.
 9. The side panelling on the existing pergola currently limits natural light and outlook at the rear of No 33. I also note that there is considerable planting within the rear garden of No 33 that would also reduce the natural light that the property receives and the outlook of the occupiers.
 10. However, the proposed extension would be significantly longer than the existing pergola and without leaves on the vegetation the screening provided would be considerably less for a large part of the year. Figures 2 and 3 in the Appellant's Statement of Case show yellow leaves and bare branches that suggests this vegetation is deciduous. In these circumstances, the size, massing and position of the proposed development would be likely to significantly reduce natural light and outlook to the rear of No 33 in late autumn, winter and early spring.
 11. Furthermore, the boundary vegetation at No 33 could be pruned by the occupiers there, if they were concerned with the level of natural light they received, or their outlook, whereas the proposed rear extension at the next door property would be beyond their control.
 12. I note the appellant's comments stating that the subordinate design of the proposal would mitigate potential overshadowing, loss of light or outlook. However, there is no substantive evidence to show that this would be the case with regard to the occupiers of No 33.
 13. Similarly, no substantive evidence has been provided to demonstrate that habitable windows at No 33 would not be affected by the proposed extension or that the extension would pass the 45 degree test, as is asserted by the appellant. Given the size, massing and position of the proposed extension relative to No 33, this does not seem likely.
 14. The appellant has suggested that the principle of the development is a material consideration and should be given significant weight in my decision. The appellant references the 'spirit' of the National Planning Policy Framework (the Framework), including paragraphs in the 2019 version regarding the effective use of land and the need for homes. The appellant considers that the proposed development would be consistent with the Framework in these regards.
 15. Reference should be made to the Framework only as far as it is relevant to the proposed development and prior approval matters and so the 'spirit' of the Framework does not concern me. In any event, the 2021 version of the Framework supersedes the 2019 version and I do not consider that the

proposal would be supported by the 2021 Framework, including with reference to Chapter 11 - Making effective use of land; and Chapter 12 - Achieving well-designed places.

16. For the reasons set out above, the proposal would have an unacceptable effect on the living conditions of the occupiers of No 33 with regard to natural light and outlook. The proposed development would, in so far as it relates to the matters contained under relevant parts of Schedule 2, Part 1, Class A of the GPDO, conflict with Policies DM D2 (design considerations in all developments) and DM D3 (alterations and extensions to existing buildings) contained in the Merton Sites and Policies Plan 2014; and, with Policy CS14 (design) contained in the Merton Core Strategy 2011.

Other Matters

17. The appellant claims that both next door neighbours now support the proposal. However, no evidence has been provided to support this statement. The appellant also makes reference to the sympathetic design of the proposed extension and to the privacy of neighbouring properties. However, with regard to the Council's Decision Notice, these are not matters of dispute between the parties.
18. In any event, none of these matters affect my assessment of the effects of the proposed development on the amenity of adjoining premises or cause me to reach a different conclusion with regard to the harm they would cause, as set out above.

Conclusion

19. For the reasons given above, I conclude that the appeal is dismissed.

A Parkin

INSPECTOR