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# Appeal Decision

Site visit made on 6 December 2022

**by Juliet Rogers BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 January 2023**

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## **Appeal Ref: APP/L5240/W/22/3298862**

### **1 Summit Way, Upper Norwood, London SE19 2PU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Jason Allcorn against the decision of the Council of the London Borough of Croydon.
  - The application Ref 21/03154/CONR, dated 14 June 2021, was refused by notice dated 16 November 2021.
  - The application sought planning permission for partial demolition of side extension and erection of a part two storey/part three storey, two bedroom dwelling, creation of access, associated cycle and refuse storage and landscaping, erection of a single storey rear extension to existing dwelling and demolition and erection of outbuilding within host property without complying with a conditions attached to planning permission Ref 19/04747/FUL, dated 30 April 2020.
  - The condition in dispute is No 2 which states that: *Unless otherwise previously agreed by the Local Planning Authority in writing the development shall be carried out entirely in accordance with the following drawings and other documents submitted with the application: 001 (Dated 1/10/2019 Received 6/10/2019), 002 (Dated 1/10/2019 Received 6/10/2019), 003 (Dated 1/10/2019 Received 6/10/2019), 004 (Dated 1/10/2019 Received 6/10/2019), 005 (Dated 1/10/2019 Received 6/10/2019), 006 (Dated 1/10/2019 Received 6/10/2019), 007 (Dated 1/10/2019 Received 6/10/2019), 008 (Dated 1/10/2019 Received 6/10/2019), 009 (Dated 1/10/2019 Received 6/10/2019), 010 (Dated 1/10/2019 Received 6/10/2019), 011 (Dated 1/10/2019 Received 6/10/2019), 012 (Dated 1/10/2019 Received 6/10/2019), 013 (Dated 1/10/2019 Received 6/10/2019), 014 (Dated 1/10/2019 Received 6/10/2019), 015 (Dated 1/10/2019 Received 6/10/2019), 016 (Dated 1/10/2019 Received 6/10/2019), 017 (Dated 1/10/2019 Received 6/10/2019), 018 (Dated 1/10/2019 Received 6/10/2019), 019 (Dated 1/10/2019 Received 6/10/2019), 020 (Dated 1/10/2019 Received 6/10/2019), 021 (Dated 1/10/2019 Received 6/10/2019), 023 (Dated 1/10/2019 Received 6/10/2019), 024 (Dated 1/10/2019 Received 6/10/2019), AF022 (Dated 16/04/2020 Received 16/04/2020).*
  - The reason given for the condition is: *To ensure an acceptable standard of development.*
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## **Decision**

1. The appeal is allowed and planning permission for the partial demolition of side extension and erection of a part two storey/part three storey, two bedroom dwelling, creation of access, associated cycle and refuse storage and landscaping, erection of a single storey rear extension to existing dwelling and demolition and erection of outbuilding within host property at 1 Summit Way, London, SE19 2PU in accordance with application Ref 21/03154/CONR dated 14 June 2021 without compliance with condition number 2 previously imposed

on planning permission Ref 19/04747/FUL, dated 30 April 2020, but subject to the following conditions:

- 1) The development shall be carried out entirely in accordance with Plan No's:
  - Proposed Front Elevation DRG A01
  - Proposed Rear Elevation DRG A02
  - Proposed Side Elevation DRG A03
  - Proposed Ground/L-Ground Floor Plan DRG A04
  - Proposed First/Ground Floor Plan DRG A05
  - Proposed Second/First Floor Plan DRG A06
  - Proposed Roof Plan DRG A07
  - Proposed Site Front Elevation DRG A08
  - Proposed Site Side Elevation DRG A09
  - Proposed Site Plan DRG A10
  - Bin & Bike Store Details DRG A11
  - Landscaping and Planting Plan DRG A12
  - Front Elevations and Materials DRG A13
  - Side Elevations Materials and Planting DRG A14
  - Front Elevation Design Statement DRG A15
  - Proposed Site with Existing Foul Sewage DRG A16
  - Site Location Plan DRG A17
- 2) No works on site above ground level works shall commence until the details relating to the design of the refuse storage has been submitted to and approved in writing by the local planning authority. Prior to the occupation of the development, the approved refuse storage shall be provided and retained thereafter.
- 3) Notwithstanding anything contained in Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015, or any amendment or replacement therefore, no enlargement of any dwelling (including the erection or enlargement of a garage or any other building or enclosure within the curtilage of any dwelling) shall be carried out without the express permission of the local planning authority.
- 4) No works above ground floor level shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. Such details shall include existing planting to be retained, species and size of proposed new planting, hard landscaping materials (which shall be permeable as appropriate), and all boundary treatment within and around the development. The approved details shall be provided before any part of the development is occupied or within such longer period or periods as the local planning authority may

previously agree in writing. All planting shall be maintained for a period of five years from the date of planting; any planting which dies or is severely damaged or becomes seriously diseased or is removed within that period shall be replaced by planting of similar size and species to that originally provided.

- 5) The development hereby permitted shall achieve a minimum 19% improvement in the Dwelling Emission Rate (DER) over the Target Emission Rate (TER) as defined in Part L1A of the Building Regulations (2013) and achieve a minimum water efficiency standard of 110/litres/person/day. Prior to the occupation of the development details confirming the carbon dioxide emissions reductions and water efficiency standards shall be submitted to and approved in writing by the local planning authority.

### **Preliminary Matters**

2. Since the Council made its decision, the Croydon Suburban Design Guide Supplementary Planning Document (2019) (the SPD) was revoked (25 July 2022) with immediate effect. Therefore, the reference to this SPD in the reason for refusal is no longer relevant and in reaching my decision I have not had regard to it.
3. The application form confirms that the approved development commenced prior to submission. During my site visit I observed that the windows and rooflights had been installed but the cladding to the front elevation was incomplete. However, it is unclear from the evidence before me of the timing and planning circumstances of these amendments therefore I have considered the appeal based on the submitted plans.

### **Background and Main Issues**

4. Planning permission has been granted for a new dwelling, the partial demolition of a side extension to the host property, and the erection of a rear extension. The appellant now wants to make amendments to the development to improve its overall sustainability and seeks the variation of condition 2 by replacing the plan numbers listed with revised plan references.
5. The Council consider that the proposed amendments do not constitute a 'minor material amendment', therefore falling outside the scope of Section 73 of the Town and Country Planning Act 1990 (the Act), and cause harm to the character and appearance of the area.
6. Therefore, the main issue of this appeal is whether the proposed amendments result in a minor material amendment to the approved scheme and, if so, the effect of the amendments on the character and appearance of the area.

### **Reasons**

7. The proposed development comprises amendments to the rooflights to the new dwelling; cycle store location for the new dwelling; height of the single storey rear extension of the host dwelling; and alterations to the external appearance of the host property and new dwelling.
8. Although the Act does not include a statutory definition of a 'minor material amendment', the Planning Practice Guidance<sup>1</sup> specifies that "it is likely to

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<sup>1</sup> Paragraph: 017 Reference ID: 17a-017-20140306

include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.”

9. The amendments to the proposed development, whilst of a contemporary appearance, would not result in a change to the description of development. With the exception of the increase in the height of the rear extension, no changes are proposed to the footprint, scale or massing of the approved scheme. Moreover, the small increase in the height of the rear extension would not alter its bulk or subservient relationship to the host dwelling. Therefore, it would not result in a substantially different development, nor would it harm the character and appearance of the area. I also find that the additional roof lights and the relocation of the cycle store are not substantially different from the approved scheme, concurring with the Council that they would not harm the character and appearance of the area.
10. The proposed alterations to the external appearance relate to the material and colour of the window frames and cladding, the use of panoramic picture windows, the size of the front ground floor window and the glass blocks in the side elevation. Although the Council imposed a condition on the planning permission requiring all new external work to be carried out in materials to match the existing building, no colours or material choices for the window frames and cladding were specified.
11. The proposed alterations comprise black aluminium window frames with panoramic picture windows and heat-treated black timber cladding which the appellant argues would improve the sustainability credentials of the design. Although no other dwelling in the terrace has panoramic picture windows or uses glass bricks, during my site visit I observed windows with a variety of openings in nearby properties. Similarly, different front and garage door styles, cladding types and windows at ground floor where garages have been converted to living space, were present in both the existing terrace and the other properties in Summit Way.
12. My attention has been drawn to a recently approved<sup>2</sup> development at 1A Buckleigh Way where a simple façade incorporates panoramic picture windows and natural timber cladding. While of a more modern appearance, the proportions of the windows and cladding on this dwelling’s frontage reflects the horizontal emphasis of the properties in its terrace and surrounding area.
13. Of a similar design to 1A Buckleigh Way, the proposed alterations would maintain the proportions and horizontal emphasis of the existing properties in Summit Way and the surrounding area. The increase in the width of the ground floor window to the front of the new dwelling further reflects this emphasis. As a result, the proposed alterations to the windows and cladding would not significantly change the overall appearance of the dwellings, would maintain the rhythm of the terrace and provide a contemporary appearance that would be sympathetic and faithful to the appearance of the terrace.
14. Whilst the existing properties in Summit Way have white window frames and cladding, during my site visit I did observe other colours, including black, on similar properties within the surrounding area. This includes the dark grey window frames and natural timber cladding on the aforementioned dwelling at 1A Buckleigh Way.

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<sup>2</sup> Ref 19/01438/DISC

15. I therefore conclude that the appeal scheme results in minor material amendment to the approved scheme and, as such, falls within the scope of Section 73 of the Act. I also conclude that the proposed amendments would not cause harm to the character and appearance of the area, in accordance with Policies D3 and D4 of the London Plan (2021) and Policies SP4 and DM10 of the Croydon Local Plan 2018. These policies, amongst other provisions, require development to respect and enhance local character through a design-led approach.

### **Other Matters**

16. Representations have been made by a third-party including comments that relate to issues which are not a matter for me to consider as part of this appeal, such as sewage and drainage issues. Whilst I appreciate the concerns relating to noise and the tidiness of the site, given the small scale of the proposed development, the works are not likely to be undertaken over a significant period of time. As such, any inconvenience would be limited.

### **Conditions**

17. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant, albeit with some edits for clarity and enforceability. In the event that some have, in fact, been discharged, that is a matter which can be addressed by the main parties.
18. As the development has started, a condition relating to the commencement of development is unnecessary. Due to the size of the appeal site and its proximity to Stambourne Way, I have imposed condition 3, as per the original approval, which removes permitted development rights.
19. On the original approval a separate condition relating to a minimum water efficiency the proposed development should achieve was imposed. As is this included within condition 5, I have not duplicated it. I have, however, added the requirement for the water and emissions standards to be submitted to and approved in writing by the Council.

### **Conclusion**

20. For the reasons given above I conclude that the appeal should be allowed and grant a new planning permission with a variation to the disputed condition. I have retained those undisputed conditions from the original permission that appear still to be relevant.

*Juliet Rogers*

INSPECTOR