



Appeal Decision

Site visit made on 19 December 2022

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 30 January 2023

Appeal Ref: APP/A5840/W/22/3298034

74 Asylum Road, London SE15 2LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr George Noorden against the London Borough of Southwark.
 - The application ref. 21/AP/0745, is dated 3 March 2021.
 - The development proposed is construction of a rear ground floor extension, construction of first and second floor extensions, enlargement of existing dormer roof extension; alteration to existing fenestration and internal alterations for 7 flats.
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Decision

1. The appeal is dismissed and planning permission for the construction of a rear ground floor extension, construction of first and second floor extensions, enlargement of existing dormer roof extension; alteration to existing fenestration and internal alterations for 7 flats is refused.

Preliminary Matters

2. This appeal relates to the non-determination of planning application ref. 21/AP/0745. In response to the appeal, the London Borough of Southwark has submitted a letter dated 10 October 2022 which states that if they had made a decision on the application, it would have been refused. The Council set out three proposed reasons for refusal which are the basis of the main issues detailed below.
3. When the appeal was submitted an enforcement case had been opened by the London Borough of Southwark to investigate the lawful use of the building and whether certain building operations were lawful. My understanding is that no formal enforcement action has been taken by the Council. I have therefore assessed the acceptability of the appeal scheme based on the plans that were before the Council during the planning application. This appeal decision does not provide comment on the lawfulness of the existing use or building operations that have already taken place at the appeal site.
4. The description of development from the planning application form accurately reflects the proposed development, including the extension to the first and second floor, as such it has been included in the banner above. I note there is some dispute between the main parties relating to measurements on the scheme drawings. Notwithstanding this, I have dealt with the appeal based on it being the proposed development shown on the drawings.

Main Issues

5. The main issues of this appeal are:

- the effect of the proposed development on the character and appearance of the host building and the surrounding area;
- the effect of the proposed development on the living conditions of the occupiers of 76 Asylum Road, with particular reference to outlook, daylight and sunlight; and,
- whether the proposed development would provide acceptable living conditions for occupiers, with regard to the provision of internal space.

Reasons

Character and Appearance

6. Several properties in the area accommodate roof extensions of varying design. The majority of these roof extensions are modest in size and allow for space around the extended section to provide views of the original roof. The existing roof extensions therefore tend to appear subservient to their host property.
7. The proposed dormer extension would extend across almost the entire span and height of the original roof, leaving small spaces on all sides of the extension. The proposed dormer extension would appear disproportionate to the original roof, due to its scale and massing compared to other extensions in the area. This would be particularly apparent when viewed from neighbouring gardens. As such, the proposed dormer extension would appear as an incongruous feature in the roofscape.
8. Tall and large rear ground floor extensions are relatively common in the surrounding area. However, they often only extend across half of the width of their host property; therefore, the rear extensions appear subordinate. The proposed rear extension would square off the existing ground floor extension and would extend further into the rear garden. Whilst the proposed ground floor extension is in general accordance with the Residential Design Standards SPD¹, in terms of its height and depth, it would overly dominate the original dwelling due to its width and would not appear subordinate.
9. The amendments to the fenestration and modest extension to the first and second floor to make the rear elevation appear flush would make the appeal property appear similar in style to neighbouring properties. As such, these elements of the proposed development would not have a harmful effect on the character and appearance of the surrounding area.
10. A condition requiring a landscaping scheme to be submitted and approved by the Council or the use of different materials, would not overcome the harm I have identified in relation to scale and massing.
11. It has been put to me that the Appellant could achieve the ground floor extension and dormer extension under permitted development rights, if it was

¹ 2015 Technical Update to Residential Design Standards (2011), Supplementary Planning Document, London Borough of Southwark, October 2011

a private home. As the appeal property is divided into 7 flats, the rights the Appellant has referred to would not apply. Accordingly, the aforementioned permitted development rights do not lead me to a different conclusion on the acceptability of the appeal proposal.

12. I conclude that the proposed development would have an unacceptably harmful effect on the character and appearance of the host building and the surrounding area. The appeal scheme is therefore contrary to P13, Design of Places, and P14, Design Quality, of The Southwark Plan 2019-2036 (Local Plan), February 2022, which state that development must ensure the scale and massing responds positively to the existing character and context; and, must provide high standards of design. The appeal scheme is also contrary to the guidance within the National Planning Policy Framework (NPPF) which states that development that is not well designed should be refused.

Living Conditions – Occupiers of 76 Asylum Road

13. The existing ground floor extension has a shadowing effect on 76 Asylum Road (No. 76). The proposed ground floor extension extends the appeal property's depth further, while rising visibly above the existing boundary fence. Given the proximity to No. 76's garden area and nearest rear ground floor window, the effect of the proposal's greater scale and projection would create additional shadowing of No. 76's garden and the room served by the window. Due to the increased shadowing those neighbouring spaces would become gloomy and occupiers would have their daylight unacceptably diminished.
14. It has been put to me that the proposed ground floor extension would also breach a 45 degree line from the mid-point of the ground floor window of No. 76. I have no evidence to support or counter this claim but from observations on site I have no reason to dispute it. As such, the proposed development could be contrary to the guidance included within the Residential Design Guide SPD.
15. The proposed first and second floor extensions, would lead to a significant increase in built form immediately adjacent to the boundary and beyond the rear elevation of No. 76. Given the immediacy to the neighbouring windows, the proposed additions would appreciably reduce the amount of daylight experienced by occupiers of No. 76 in their first and second floor rooms. Due to this those rooms on the first and second floor would feel unacceptably gloomy.
16. The proposed ground floor extension's projection would rise above the existing boundary treatment and would be viewed as a blank façade above the fence line. Similarly, the proposed first and second floor extensions would increase the amount of built development immediately adjacent to the boundary. Given that 74 Asylum Road (No. 74) is taller and already extends beyond the rear elevation of No. 76, the increase in built development along the boundary would create an increased sense of enclosure. Consequentially, the proposed extension would feel oppressive to occupiers of No. 76, particularly from within rear rooms and areas of amenity.
17. Given the orientation of the properties I do not consider the proposed development would harmfully affect the amount of sunlight experienced by occupiers of No. 76.

18. I conclude that the proposed development would have an unacceptably harmful effect on the living conditions of the occupiers of No. 76 with particular reference to outlook and loss of daylight. The appeal scheme would therefore be contrary to P56, Protection of Amenity, of the Local Plan which states development should not be permitted when it causes an unacceptable loss of amenity to future occupiers. The appeal scheme is also contrary to the NPPF, which requires decisions to ensure developments create places with a high standard of amenity for future users.

Living Conditions – Occupiers of 74 Asylum Road

19. Table 1, on page 12, of the Residential Design Standards SPD sets out the internal space standards all development is required to adhere to. The flats would be considered one bedroom flats as the proposed plans show separated kitchen and bedrooms. The Appellant does not dispute that the flats would not meet the required internal space standards if the proposed development was implemented. The appeal scheme is therefore contrary to the guidance outlined in the Residential Design Standards SPD and nationally described space standards. Despite increasing the size of some of the flats, the proposal's failure to adhere to the above standards would lead to cramped and overly crowded accommodation.
20. The Appellant disputes the accuracy of one of the measurements the Council has provided in relation to the proposed internal space within Flat 2. Regardless of whether the measurement provided by the Council, or the Appellant is correct, neither meets the internal space standards set out in Table 1.
21. I therefore conclude that the proposed development would lead to unacceptable living conditions for occupiers of No. 74. The appeal scheme is therefore contrary to P14 Design Quality and P15 Residential Design of the Local Plan, which state that development must provide high standards of design and provide a high standard of quality of accommodation for living conditions. The appeal scheme is also contrary to the guidance within the NPPF which requires decisions to ensure developments create places with a high standard of amenity for future users.

Other Matters

22. The proposed amount of external amenity space is not disputed by the Council and is considered a neutral factor as part of my consideration of the appeal.
23. The conduct of the Council during the determination of the planning application is outside of my scope when considering the acceptability of the appeal scheme.
24. Whilst the Council may have positively considered the appeal scheme during pre-application discussions, those discussions are undertaken without prejudice. As a consequence, positive feedback during pre-application discussions would not warrant allowing this appeal. Similarly, any future planning application would need to be determined on its own merit.

Conclusion

25. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either

individually or in combination, that outweigh the identified harm and associated development plan conflict.

26. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

J Hobbs

INSPECTOR