



Appeal Decision

Site visit made on 24 January 2023

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2023

Appeal Ref: APP/A5840/W/22/3307321

43A Naylor Road, Southwark, London SE15 1QJ

- 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 Thomas Reekie against the decision of London Borough of Southwark.
 - The application Ref 22/AP/0505, dated 19 February 2022, was refused by notice dated 28 April 2022.
 - The development proposed is the construction of a single storey side-rear extension and installation of a new obscure glazed side facing window at ground floor level.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading above, I have taken the description of development from the Council's decision notice and the appellant's appeal form as this more accurately describes the appeal proposal.
3. The appellant has submitted a 'Daylight & Sunlight Amenity (Neighbouring) Study', dated August 2022, prepared by Rapleys LLP, with their appeal submission. The report concludes that the proposal would not have a noticeable or negative impact on the light received by the occupants of 41 and 45 Naylor Road. On the basis of the study, the Council have confirmed that they no longer object to the proposal on the grounds of loss of daylight and sunlight. I have therefore determined the appeal on this basis.

Main Issue

4. The main issue is the effect of the proposal upon the living conditions of the occupants of 41 and 45 Naylor Road, with respect to outlook.

Reasons

5. 43A Naylor Road is a 1 bedroom, ground floor flat within a 2 storey terraced dwelling, which has been converted into 2 flats. A 2m close boarded fence encloses the rear garden. The terrace of properties each have a 2 storey outrigger to the rear. There is a ground floor bedroom window on the rear elevation of the main building of 45 Naylor Road, the attached neighbour to the south, which overlooks the strip of land alongside their outrigger.
6. The proposal would extend from both the side and rear elevation of No 43A, wrapping around the 2 storey outrigger to the rear. Consequently, it would project approximately 9m in depth along the shared boundary with No 45.

7. Due to the siting, scale and massing of the proposal, in particular the side extension, the development would have an unacceptable overbearing effect upon the outlook from the ground floor bedroom window of No 45. Whilst only slightly higher than the existing 2m boundary fence, the proposal would be of a much greater massing, which would be more overbearing and give a greater sense of enclosure than the existing boundary fence. Whilst there would be a small courtyard immediately between the bedroom window of No 45 and the extension, this small break would not be sufficient to reduce the unacceptable impact of the extension.
8. I note the findings of the Daylight and Sunlight Amenity Study, which found that there would be no change in the amount of sky visible from the ground floor bedroom window. The appellant considers that this is a 'good proxy for window outlook'. However, whilst the amount of daylight would be unaffected, the proposal would still be overbearing and enclosing to their outlook, by virtue of its siting, scale and massing.
9. I also note that the proposed section drawing¹ demonstrates that the internal ground floor of the bedroom window of No 45 is slightly higher than the rear garden level of No 43A. However, due to the depth of the extension and its massing, it would still be overbearing and enclosing to the occupants of No 45, in particular from the bedroom window.
10. Regarding the living conditions of the occupants of 41 Naylor Road, the neighbouring property to the north, there is a window along the rear elevation of their 2 storey outrigger which lies adjacent to the boundary with No 43A. Although the use of the window is unknown, it is likely to serve a bathroom or a kitchen. Whilst the extension would change the outlook from this window, due to the outlook from this window remaining open on the other side, where it is afforded the separation distance from 39 Naylor Road due to the side return of the outrigger, it is not considered that the proposal would be unacceptably overbearing. Consequently, the proposal would not be harmful to the living conditions of No 41, with respect to outlook from the rear window.
11. Due to the adequate size of the rear gardens associated with Nos 41 and 45, it is not considered that the proposal would be harmful to the outlook from their rear gardens, nor would it be unduly enclosing. The eastern end of the neighbouring gardens would not be enclosed by the development, which would allow the occupants of Nos 41 and 45 to continue to enjoy their outdoor amenity space at an acceptable level.
12. It is acknowledged that the proposal was reduced in both height and depth during the course of the application. I also note the use of the hipped roof, with a rooflight at the ridge, which would allow for a lower height towards the boundaries. Whilst these design details and alterations would reduce the level of harm, the proposal would still be harmful to the living conditions of No 45, with respect to outlook.
13. It is noted that the proposal would be 2.4m high on the boundary, as opposed to the maximum height of 3m, which is suggested as an acceptable height in the 2015 Technical Update to the Residential Design Standards Supplementary Planning Document (SPD) (2011). However, the SPD also suggests that 3m is the maximum depth of a single storey extension, in order to prevent a feeling

¹ Drawing No 003_101 RevE Proposed Plan, Section and Elevation

of enclosure, and the proposal would exceed this suggested 3m depth significantly.

14. Therefore, for the reasons given above, whilst I have found no harm to the living conditions of 41 Naylor Road, the proposal would be harmful to the living conditions of the occupants of 45 Naylor Road, with respect to outlook. It would be contrary to Policy P56 of the Southwark Plan 2019-2036 (adopted February 2022) which states that development should not be permitted when it causes an unacceptable loss of amenity to present or future occupiers or uses. Amenity considerations that will be taken into account include, amongst others, the outlook of occupiers of existing homes and the actual or sense of enclosure.
15. It would also conflict with Section 3.4 of the SPD, which, amongst others, requires development to not unacceptably affect the amenity of neighbouring properties and to not be of a size or scale that would visually dominate neighbouring properties.

Other Matters

16. A terrace of Grade II listed buildings, 127-149 Caroline Gardens, runs to the rear of the appeal site. The terrace also forms the western boundary of the Caroline Gardens Conservation Area. The special interest of the listed buildings derives mostly from their former use as almshouses, their stock brick construction and their consistent fenestration and door arrangement. This is best experienced from their front elevation, within Caroline Gardens itself. Due to the modest scale of the proposal, it would have a neutral impact on the listed buildings and the setting within which they are appreciated.
17. The permitted development rights referred to by the appellant would not be applicable to the appeal property. I therefore attach this potential fallback position limited weight in my decision, and it does not persuade me that the development would be acceptable in respect of its effect on the living conditions of No 45.
18. It is acknowledged that the existing 1 bedroom flat falls short of the current internal space standards and that the proposal, which would create a 2 bedroom flat, would meet the required internal space standards. The proposal would also provide the future occupants of No 43A with adequate outdoor amenity space. However, these are both neutral findings rather than benefits that would weigh positively in favour of allowing the appeal.

Conclusion

19. The development conflicts with the development plan as a whole. There are no material considerations worthy of sufficient weight that would indicate a decision otherwise than in accordance with it. The appeal is therefore dismissed.

Laura Cuthbert

INSPECTOR