The Planning Inspectorate

Appeal Decision

Site visit made on 12 January 2023

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31/01/2023

Appeal Ref: APP/P5870/W/22/3305392
9A The Broadway, Sutton SM1 4BU

- 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 Kevin O'Brian against the decision of the Council of the London Borough of Sutton.
- The application Ref DM2022/00165, dated 31 January 2022, was refused by notice dated 8 July 2022.
- The development proposed is erection of privacy screening to first floor rear roof terrace.

Decision

1. The appeal is allowed and planning permission is granted for erection of privacy screening to first floor rear roof terrace at 9A The Broadway, Sutton SM1 4BU in accordance with the terms of the application, Ref DM2022/00165, dated 31 January 2022, subject to the following conditions:

   1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

   2) The development hereby permitted shall be carried out in accordance with the following approved plans and details:

      1055-400 (SITE LOCATION PLAN)

      1055-401 (EXISTING FLOOR PLANS)

      1055-405 (EXISTING ELEVATIONS)

      1055-411 (PROPOSED FLOOR PLANS)

      1055-415 (PROPOSED ELEVATIONS)

      1055-420 (EXISTING AND PROPOSED SITE PLANS)

      Design And Access Statement Feb 2022

   3) No development shall take place until a Fire Safety Strategy pursuant to Policy D12 (A) of the London Plan has been submitted to and approved in writing by the local planning authority.

Preliminary Matters

2. In the banner heading, I have referred to the description of the proposed development from the Council's decision notice. This describes the proposal more precisely than that contained within the application form.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupiers of 10 The Broadway in terms of outlook, light, noise, activity and disturbance.

Reasons

4. The appeal proposal comprises the erection of a high privacy screen to enclose an external area of flat roof, located beyond the first-floor rear patio doors of the appeal property. This area would be used as an external terrace. I could see during my site visit that there are other roof terraces to the rear of properties in this area, including one with a high, obscured privacy screen.

5. 10 The Broadway adjoins the appeal site and features a set of floor-to-ceiling glazed doors and windows on its rear facing elevation at first floor. This rear elevation sits in line with the first-floor rear elevation of the appeal property. Though it would be high and sit close to the shared boundary, I consider that the extent to which the proposed privacy screen projects beyond these doors and windows would be relatively modest.

6. The proposed privacy screen would also not run perpendicular to these doors / windows, but would splay away at a shallow angle, due to the angle of No 10's rear garden and the ground floor offshoot below the appeal site. The outlook from these rear windows and doors at No 10 would also remain substantially open to the south and west given its elevated position. I consider the effect on the outlook from No 10's first-floor rear doors / windows would be limited.

7. There is a ground floor rear offshoot at No 10 with rear facing windows / doors overlooking an enclosed garden area. This ground floor rear elevation is angled more towards the appeal site however extends beyond the rear elevation of the appeal property. Accordingly, the projection of the privacy screen beyond the ground floor rear elevation of No 10 would be shorter. Despite its elevated position relative to No 10's ground floor, the effect of the proposal on the outlook from these rear doors / windows would therefore also be limited.

8. A daylight and sunlight report was not submitted with the planning application and none has been received in relation to this appeal. I have therefore assessed the relevant matters on the merits of the case as I see them. Given the south facing orientation of the rear elevation of No 10, the appeal proposal would result in some limited loss of direct sunlight to the first-floor doors and windows, when the sun is lower in the sky to the east. The effect on the ground floor doors / windows would be smaller however given the limited projection of the proposal beyond these. Both the ground and first floor of No 10 would also continue to benefit from direct sunlight through the day due to their orientation. Furthermore, the translucent nature of the privacy screen would still allow light to permeate to a degree. I therefore find the proposal would not result in unacceptable loss of light and overshadowing to No 10.

9. I accept the proposal may result in a degree of additional noise, activity and disturbance externally at first floor level. However, given the modest size of the appeal property, it would likely only be at a level that could reasonably be expected in a domestic setting, and in the context of the other roof terraces in the vicinity.

10. I therefore find that the proposal would not unduly harm the living conditions of the occupiers of 10 The Broadway in terms of outlook, light, noise, activity and disturbance. The proposal is therefore in accordance with Policy 29 of the Sutton Local Plan 2016-2031 (adopted 2018). This policy, amongst other things, seeks to protect the amenities of those currently occupying adjoining or nearby properties, taking into consideration matters including outlook / sense of enclosure, sunlight, daylight, overshadowing, and noise.

Conditions

11. The Council have suggested conditions should the appeal be successful. I have considered these and amended where necessary to accord with the national Planning Practice Guidance.

12. In addition to the standard time limit condition, it is necessary to specify the approved plans as this provides certainty. A condition is also required to secure a Fire Safety Strategy, to ensure the development complies with Policy D12 of The London Plan (adopted 2021).

Conclusion

13. For the reasons given, I conclude that the appeal should succeed.

Ryan Cowley

INSPECTOR