



Appeal Decision

Site visit made on 7 March 2023

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th April 2023

Appeal Ref: APP/L5240/D/22/3303961

36 Windham Avenue, Croydon CR0 0HU

- 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 Samson Alabi against the decision of the Council of the London Borough of Croydon.
 - The application Ref 21/05643/HSE, dated 9 November 2021, was refused by notice dated 11 May 2022.
 - The development proposed is two floor rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for two floor rear extension at 36 Windham Avenue, Croydon CR0 0HU in accordance with the terms of the application, Ref 21/05643/HSE, dated 9 November 2021 and 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 plan: P/01.
 - 3) Prior to the commencement of the development, a fire safety strategy shall be submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.
 - 4) The external materials to be used in the construction of the extension hereby permitted shall match those used in the existing dwelling.
 - 5) Construction works shall take place only between 08:00 and 18:00 hours on Mondays to Fridays, 08:00 and 13:00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.

Preliminary Matters

2. Following determination of this planning application, the Council's Suburban Design Guide Supplementary Planning Document (SPD) has been revoked and is no longer a material consideration. Both parties have been given the opportunity to comment on this and I have taken the comments received into account.

Main Issues

3. The main issues are the effect of the proposed development on (i) the character and appearance of the area, (ii) the living conditions of No 34

Windham Avenue (No 34), with particular regard to outlook and dominance, and, (iii) whether the proposal adequately addresses fire safety.

Reasons

Character and appearance

4. The appeal site lies within a residential area, which is characterised by 2 storey, semi-detached and terraced houses of a similar style. The houses are generally set back from the highway behind a grass verge. The uniformity of the houses, in terms of their scale and form and the surrounding soft landscaping make a positive contribution to the character and appearance of the area.
5. The appeal property is a 2 storey, semi-detached dwelling, with pebbledash render. The dwelling has a 2 storey side extension and single storey rear extension. The appeal property is sited on lower level land than the highway. The land continues to fall away to the rear of the property and beyond. The adjacent property at No 34 differs in design, materials and size from the host dwelling and has a gable front, brick finish and is smaller in size.
6. The proposed 2 storey rear extension would be sited centrally and would not extend the full width of the host property. It would be set in from the shared boundary with No 34 and would not be as deep as the existing single storey extension. As a result, it would not create a significant mass or unbalance the rear of the property or its relationship with the adjoining dwelling.
7. The ridge and eaves height of the proposed extension would match that of the host dwelling. However, the adjoining property and others in the locality have gables that have the same ridge height as the principal part of the dwelling. I appreciate that the other gables are on the front of the dwellings and are not as deep as the proposal, nevertheless, such gables that extend at ridge level form part of the character of the area. Whilst not subservient, the proposal would not read as a discordant addition or appear out of character in the locality.
8. Although views of the rear elevation are limited, there are likely to be glimpses of the roof of the extension from Godric Crescent, which runs to the south and rear of the appeal site. The proposed extension would not appear unduly prominent in these glimpsed views and given its design and materials would integrate well with the host property.
9. For the reasons above, I conclude that the proposed development would preserve the character and appearance of the area and would comply with Policies SP4.1 and DM10 of the Croydon Local Plan 2018 (CLP), which require that the siting, layout and form of new development respects the character and appearance of the area.
10. The Council's first reason for refusal does not allege conflict with a specific policy from the London Plan 2021 (LP). Based on the LP policies submitted by the Council and the delegated report, Policy D3 is also relevant to this main issue, which requires that the design is appropriate to its context. Accordingly, I find that the proposal would also comply with this policy.

Living conditions

11. No 34 has a single-storey rear projection. There is a closed boarded fence along the shared boundary, with ivy and other vegetation above, which provides screening. The single-storey element of the proposed extension would be set in slightly from the boundary with No 34. Given the limited height and depth of the single-storey element and the fact that No 34 has an existing single-storey rear projection, this part of the proposal would not harm the living conditions of occupants of the neighbouring property.
12. The 2 storey part of the proposal would be set in further from the shared boundary than the single-storey element. The 2 storey extension would be visible from the first floor rear windows of No 34 at an angle. However, given the siting and depth of the proposed development, it would not appear unduly dominant or overbearing when viewed from the neighbouring property and its garden. The rear windows of No 34 primarily look out over its garden and outlook would remain good.
13. The occupants of No 34 include 2 individuals with disabilities, including a disabled child, with complex medical conditions. Concerns have been raised that noise and disruption during construction works would be harmful to the child's health. The Public Sector Equality Duty set out in Section 149 of the Equality Act 2010 (the Act) states that disability is a relevant protected characteristic for the purposes of the Act. Therefore, I have had due regard to the need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it.
14. Article 8 of the Human Rights Act is also engaged as the proposal could affect the health, well-being or living conditions of persons within their home and the rights of a child. In the context of Article 8, the best interests of a child must be a primary consideration and no other consideration can be treated as inherently more significant. However, although a primary consideration, a child's interest is not determinative of the planning issue and may be outweighed by the cumulative effect of other considerations.
15. I am sympathetic to the personal circumstances of the neighbouring family; however, the construction works would be for a temporary period only and issues such as noise are covered by other legislation. Nevertheless, given the circumstances it would be proportionate to apply a condition restricting the days/hours that construction works can be carried out. This would provide certainty for the neighbour of the construction hours and help to minimise noise disturbance. Consequently, any noise disturbance would be short-term and would not be unduly harmful to occupants of the adjoining property.
16. I conclude that the proposed development would comply with Policies SP4.2 and DM10.6 of the CLP and Policy D3 of the LP. These policies amongst other matters address well-being and seek to protect the living conditions of adjoining occupants, including ensuring that appropriate outlook is retained.

Fire safety

17. Policy D12 of the LP requires that developments achieve the highest standards of fire safety. Criterion A of Policy D12 emphasises the importance of incorporating features that reduce the risk to life or serious injury, including

fire alarm systems and passive and active fire safety measures. This policy also requires details or provision of a robust strategy for evacuation.

18. The appellant has confirmed that the means of access, position of the staircase, internal door arrangement and number of bedrooms would remain as existing. Given the above and to ensure that the highest standards of fire safety are incorporated into the proposed development, a fire safety strategy will be required by condition.
19. For the reasons given above, I conclude that subject to a pre-commencement condition, which requires the appellant to submit a fire safety strategy, I find no conflict with Policy D12 of the LP, which requires that developments achieve the highest standards of fire safety.

Other Matters

20. Third parties have raised concerns in respect of matters not addressed above, including loss of light, impact on trees, loss of privacy, flooding, overdevelopment and disruption during construction works. These matters have not been raised as reasons for refusal by the Council and there is no substantive evidence before me to reach a contrary conclusion.
21. Ownership matters are a private issue between the relevant parties and not within my jurisdiction.

Conditions

22. In addition to the standard time limit condition and in the interests of certainty, I have included a condition specifying the approved plans. A fire safety strategy is required prior to commencement to ensure that fire safety is fully considered in advance of building works commencing. This pre-commencement condition has been agreed with the appellant. To ensure the development assimilates well with the existing dwelling, a matching external materials condition is required. In order to protect the living conditions of neighbouring residents and minimise noise disturbance, a condition restricting the days/hours that construction works can be carried out is also imposed.
23. A condition restricting the use of the flat roof part of the extension is not considered necessary, given that the development must be carried out in accordance with the approved plan, which shows no means of access onto the flat roof or means of enclosure of this roof space.

Conclusion

24. For the reasons given above, having regard to the development plan as a whole, the National Planning Policy Framework and all other relevant material considerations, including the personal circumstances of the occupants of the adjoining property, I conclude that the appeal should be allowed, subject to conditions.

A James

INSPECTOR