

Appeal Decision

Site visit made on 5 April 2023

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2023

Appeal Ref: APP/P5870/W/22/3306911

Flat 4, Belmont House, 138 Burdon Lane, Cheam, Sutton SM2 7DA

- 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 Christopher Fordham against the decision of the Council of the London Borough of Sutton.
 - The application, Ref. DM2022/00709, dated 11 April 2022 was refused by notice dated 21 June 2022.
 - The development proposed is the creation of two side facing dormers to rear facing gable section and its conversion to extend the existing Loft Floor Flat. Addition of Velux Rooflights.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (i) the effect of the proposal on the character and appearance of the site and the adjacent Burton Estates Area of Special Local Character ('the ASLC'), and (ii) the effect on living conditions as regards privacy for the occupiers of 136 Burdon Lane and 5 Downs Side.

Reasons

3. On the first issue, the Council considers that the flank/rear dormer extensions element of the scheme would result in overly dominant and incongruous features to the detriment of the character and appearance of the site and thereby to the Burton Estates ASLC.
 4. However, as the grounds of appeal point out, the host building has been the subject of a range of alterations and additions over the years and these include flat roofs on different elevations and at different levels. Bearing this in mind together with the proposed dormers being of limited size and positioned towards the rear, I do not consider that the appeal scheme would materially alter the appearance of this large building or the adjacent ASLC.
 5. Accordingly, and notwithstanding their higher position, the proposed dormers' size and design would not be such as to draw the eye and adversely affect Belmont House's character as a twin gabled villa of the early C20th. There would therefore be no conflict with Policies 28 & 30 of the Sutton Local Plan 2016-2031 ('the Local Plan') or with Section 12: 'Achieving Well-Designed Places' of the National Planning Policy Framework 2021 ('the Framework').
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6. As regards the second issue of the effect on the privacy of neighbours, from my internal inspection of Flat 4 I was able to observe that from the existing side glazed door there is a direct and uninterrupted view of the flank of No. 136 and the whole of the rear garden. The appeal scheme would introduce an additional two windows and these are proposed to be obscure glazed, albeit paradoxically since even if they had been clear glazed as originally proposed they would not have increased the extent of No. 136 that can already be clearly seen. That said, the obscure glazing would serve the purpose of limiting the opportunities for additional overlooking and despite the neighbours' comments I am also satisfied that a condition on a permission would provide an enforceable long term protection from a further reduction of their privacy.
7. To the rear of the appeal building, the boundary of the back garden of No. 5 Downs Side is positioned at close quarters to this wing of the host property and therefore to Flat 4 at its higher level. At present there is a very high hedge along the shared boundary and although I was unable to access other flats to look out of the existing first floor windows in the rear of the building it seems highly likely that this hedge prevents views into No. 5's rear garden.
8. The inclusion of the proposed additional clear glazed doors in the gable of Flat 4 at the higher second floor level would however permit views into a substantial part of this garden, as evidenced by the photographs supplied by the occupier of No. 5 Downs Side. Because of the angle of view and the height of the proposed opening, there would not be a 'face to face' relationship in respect of the windows.
9. I do not therefore consider that there would be any views into the bedroom, as alleged. However, with the hedge at its current height (albeit it very high) the direct views from the proposed office/lounge into the rear garden of 5 Downside would result in an unacceptable loss of privacy for the occupiers of that dwelling. On this issue, I accordingly conclude that there would be an unacceptably harmful conflict with Local Plan Policy SD29 and the Framework's paragraph 130f).
10. Overall, I have concluded on the first issue that there would not be a harmful effect on the character and appearance of the area or the ASLC. However this is not outweighed by my finding of harm as regards the effect on neighbours' privacy.
11. For these reasons and having had regard to all other matters raised, the appeal must fail.

Martin Andrews

INSPECTOR