



Appeal Decision

Site visit made on 5 September 2023

by C Billings BA (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th October 2023

Appeal Ref: APP/P5870/D/23/3323420

102 St Dunstons Hill, Cheam, Sutton SM1 2TX

- 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 Govindarajan Sudarshan Perumalswamy Venkataraman against the decision of London Borough of Sutton.
- The application Ref DM2022/02306, dated 28 December 2022, was refused by notice dated 9 March 2023.
- The development proposed is a single storey rear extension to provide ground floor shower/WC and extended dining area and provision of raised decking at rear and steps down to rear.

Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension to provide ground floor shower/WC and extended dining area and provision of raised decking at rear and steps down to rear at 102 St Dunstons Hill, Cheam, Sutton SM1 2TX in accordance with the terms of the application, Ref DM2022/02306, dated 28 December 2022, subject to conditions set out in the schedule below.

Preliminary Matters

2. The description of development has been taken from the application form. I am satisfied this appropriately describes the proposed development.
3. Since the appeal was submitted, a revised version of the National Planning Policy Framework (the Framework) has been published in September 2023. The revisions to the Framework do not however relate to matters of concern raised in this appeal.

Main Issue

4. The main issue is the effect of the proposed decking area on the living conditions of the occupiers of 102A and 104 St Dunstons Hill, with regard to privacy within the rear garden areas of these properties.

Reasons

5. The proposed decking area would project a further 1.5 metres to the rear of the proposed single storey extension. Steps would lead down from the decking area to the rear garden of the appeal property in the direction towards 104 St Dunstons Hill (No 104) and terminate leaving a gap between the bottom of the stairs and the side boundary with No 104.
6. To the rear of the appeal dwelling there is an existing large, raised decking area. This existing decking area extends to almost the full width of the house and is approximately the same depth to the rear of the property as the

proposed single storey extension. The proposed decking area would be much smaller than that which exists and extend only approximately halfway across the width of the proposed rear extension.

7. The maximum height of the proposed decking area would be 2 meters above ground level. This proposed 2 metres height would include the balustrade fencing proposed to surround the decking area. The level of the proposed decking itself would be approximately 1 metre high above ground level, which is approximately the same height as the existing decking level.
8. Due to the difference in levels of approximately 1 metre from the internal floor level of No 102 and the garden level of the host dwelling, a decking area or other raised area with steps down to the rear garden would be needed, otherwise there would be restricted access to the rear garden of the property.
9. There is already the ability to significantly overlook the rear garden of No 102A St Dunstons Hill from the existing large decking area at No 102. This is due to the raised level of the decking and that there is a less than 2 metre high (from ground level) close boarded fence along the side boundary shared with No 102A. In addition, the ground floor level and garden of No 102A is set at a lower level than the appeal property, which increases the ability to overlook from the existing and proposed decking areas.
10. The existing decking area is immediately to the rear of the appeal property, and so is much closer to the rear elevation and main part of the garden of No 102A than the proposed decking area would be. The relationship of the existing decking area to the rear garden of No 102A therefore has greater opportunity, than the proposed decking area would have to overlook the rear garden of No 102A.
11. The proposed small decking area would be set further down the rear garden of the appeal property, beyond the proposed single storey extension and so, would be located further away from the rear elevation and patio area immediately at the rear of No 102A, than the existing decking area.
12. As the proposed decking area would be small, it would afford less ability to have seating areas or use for other private recreational enjoyment, compared to the existing decking area. The proposed small decking area would also likely primarily have a functional use, to provide access to/from the back door to the steps down into the garden of the appeal property. These factors would reduce the opportunity to overlook the rear garden of No 102A from the proposed decking area when compared to the existing decking area.
13. The proposed decking area would be set away from the boundary with No 104. The garden level of No 104 is slightly higher than that of the appeal property and there is an existing high fence along the boundary shared with No 104. Due to these factors, the opportunity to overlook and cause intrusive views into the rear garden of No 104 would not be significant nor harmful. Accordingly, there would be no unacceptable loss of privacy caused to the occupiers of No 104.
14. In 2019 planning permission was granted by the Council for the same development as that proposed, although this is no longer extant and the Council has referred to changes in circumstances surrounding the reliance on conditions to secure details of privacy screens, whereby they had imposed a

condition in relation to such on the previous permission. The Council also states that there has been a considerable change in policy context since the 2019 permission that weighs against the proposals, notably the London Plan was adopted in 2021 and revised Framework published in 2021. However, no substantive evidence of the proposal conflicting with any updated planning policy has been provided. Notwithstanding such matters, I have considered the appeal proposal on its individual merits, taking into account all the evidence submitted and my observations.

15. In view of the above, the proposed decking area would not cause harm to the living conditions of occupiers of Nos 102A and 104 St Dunstons Hill in regard to loss of privacy within the rear garden areas of these properties. The proposal therefore would not conflict with Policy 29 of the Sutton Local Plan (SLP), which amongst other things, seeks to protect the amenity of neighbouring occupiers from overlooking causing loss of privacy.

Other Matters

16. Nearby neighbours raise concerns about the construction of the proposed development and access that would be required by construction vehicles, due to disturbance and potential damage caused to the vehicular access at the rear and, to nearby dwellings. Some disturbance from construction works is typical of most developments, but in the case of a small extension and decking area, this would unlikely be significant or prolonged. Access rights and any resultant damage caused to nearby property are private, rather than public matters and so are not material planning considerations that weigh against the proposals.
17. Concerns have been raised by the occupiers of No 102A about loss of sunlight to their living room and garden and overlooking into the habitable rooms. Due to the juxtaposition of the proposed extension in relation to this neighbouring property and the single storey height and length of the proposed extension, it would unlikely result in significant loss of sunlight to No 102A, harmful to the living conditions of its occupants.
18. As the proposed decking area would be much smaller and further away from the windows in the rear of No 102A than the existing decking area, and that there would be the intervening proposed single storey extension, it would be more difficult to view into the windows of No 102A from the proposed decking area than the existing situation. Accordingly, it is unlikely there would be overlooking that would cause harmful loss of privacy to the living room, bathroom, and bedroom of No 102A. Furthermore, concerns about loss of sunlight and overlooking into the neighbouring property windows were not raised by the Council and, I have no substantive basis to conclude differently.

Conditions

19. I have considered the conditions suggested by the Council, in the event I allow the appeal, having regard to the advice contained within the Planning Practice Guidance and the Framework. In addition to the standard implementation condition, it would be necessary for the avoidance of doubt and in the interests of certainty to define the plans and documents with which the scheme should accord. This includes the submitted Planning Fire & Safety Strategy, as it forms part of the application proposals and would ensure compliance with the requirements of Policy D12 of the London Plan, that all development achieves high standards of fire safety.

20. To ensure the external appearance of the proposed extension is in keeping with the character and appearance of the host dwelling, a condition is required to ensure the materials used would match.
21. In view of my findings on the main issue above, it is not necessary to include a condition to require a privacy fence to the side of the proposed decking area to make the proposal acceptable.

Conclusion

22. For the reasons given above, I conclude that the appeal should succeed and grant planning permission.

C Billings
INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin no later than 3 years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and details submitted with the application: JN/GS/4, JN/SG/3, JN/SG/6, Site Location Plan, JN/SG/2, and the Planning Fire & Safety Statement dated 23 January 2023.
3. The external materials of the single storey extension hereby permitted shall match those of the host dwelling house.