



Appeal Decision

Site visit made on 23 November 2023

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 12.12.2023

Appeal Ref: APP/P5870/D/23/3330387 92 Burdon Lane, Cheam 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 Azhar Hashmi against the decision of the Council of the London Borough of Sutton.
 - The application Ref: DM2023/00718 dated 27 April 2023, was refused by notice dated 6 July 2023.
 - The development is freestanding pergola to the rear of detached private dwelling house.
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Decision

1. The appeal is allowed and planning permission is granted for freestanding pergola to the rear of detached private dwelling house at 92 Burdon Lane, Cheam SM2 7DA in accordance with the terms of the application Ref: DM2023/00718 dated 27 April 2023 and the plans submitted with it (23-484 100; 23-484 101 Rev A; 23-484 102 Rev A; 23-484 103 and 23-484 104), subject to the following condition:
 - 1) The flat roof of the development hereby permitted shall not be used, in whole or in part, as a terrace or other amenity space. No railings, fences walls or other means of enclosure shall be erected on the flat roof and no alterations shall be carried out to the elevation of the application property to form access onto the roof.

Preliminary Matters

2. There have been a number of applications and permissions relating to the above site and it is not clear to me which have been implemented, although both the Appellant and the Council have referenced DM2022/00997 granted in August 2022 for a rear extension which has now been completed.
3. The development before me relates solely to the pergola which has been added to the rear extension. The application forms confirm that the development had both commenced and been completed at the time of the application. The Council has also confirmed that the pergola is in place, as I saw at the time of my site visit. I shall therefore treat the application as one made under Section 73A of the Town and Country Planning Act 1990 for retrospective planning permission for development as originally carried out, namely the erection of a pergola.
4. The Council has referred to the fact that steps have been erected which do not appear to accord with the steps for which permission was granted under the

earlier application. The Appellant has not commented on this matter and my decision is based on the material before me, including the as built plans.

Main Issue

5. The main issue in this appeal is the effect of the development as built on the character and appearance of the existing property and on the local area.

Reasons

6. The appeal property is a detached residential property on the west side of Burdon Lane and on the corner with Warren Avenue. The area is predominantly residential with a broad mix of detached houses of varying design. Part of the rear of the property is visible when approaching from the west along Warren Lane, although I acknowledge that the street trees, when in full leaf, may affect the extent of views.
7. The pergola is an open sided structure with a solid flat roof which extends out from the rear extension some 3240mm in depth, the full width of the extension. Because of the slope of the garden away from the house, the pergola, where it meets the garden is some 34775mm high. The frame is a satin black coated frame with four posts. It includes motorised louvre blades with 90 degree rotation.
8. The appeal property as well as the properties fronting Burdon Lane to the south of it, lie outside of but adjacent the Burton Estates Area of Special Local Character (ASLC) with the boundary running along their rear boundaries. The Council defines the ASLC in the following way: *Given the historic importance and the architectural qualities of the buildings and associated landscape of the Burton Estates, it is considered to be one of the best examples of inter-war suburbia.* Policy 30 of the Local Plan seeks for development outside of an ASLC, but which would affect it, to conserve and where practicable enhance those elements which contribute to the particular character or appearance of that Local Area.
9. The pergola is seen in the context of the extended property, which is contemporary in design with generally clean straight lines, and the design of the pergola follows a similar design style, albeit with a change of materials. I consider that the pergola given its depth and height in relation to the permitted and completed extension is seen as subservient in form to the main house, continuing to step down away from the bulk and massing of the main house. It is also well contained within the rear garden of the property, with a generous amount of garden area remaining within the plot.
10. As I have already indicated the rear of the property, including the pergola can be seen when approaching along Warren Lane towards the property. However, in such views I do not consider that the pergola stands out as an over dominant element but as an integral and subservient part of the rear elevation of the main house. I therefore consider that it is neutral in terms of its effect on views from within the ASLC and in turn on the character and appearance of the ASLC.
11. I am therefore satisfied that the pergola respects both the character and appearance of the existing property as well as the local area, including its location adjacent the Burton Estates ASLC. There is no conflict with Policies 28 and 30 of the Sutton Local Plan or the National Planning Policy Framework, all

of which amongst other matters seek a high quality of design which respects the local context.

Other Considerations

12. I have noted the objection raised by a neighbour, but I agree with the Council that given the siting of the pergola within the rear garden of an existing property, as well as its depth and height, there would be no material harm to the amenities of neighbouring residents. However, and to protect the living conditions of neighbouring residents, I agree with the condition proposed by the Council to prevent use of the roof of the pergola as a sitting out area.

Conditions

13. As the development is already in place, the standard conditions relating to commencement of development and materials are not applicable. However, and as set out above, in order to protect the amenities of neighbours, a condition should be imposed to prevent the use of the roof as a terrace or any form of sitting out area.

Conclusion

14. For the reasons given above and having regard to all other matters raised, I conclude that this appeal should be allowed.

L J Evans

INSPECTOR