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# Appeal Decision

Site visit made on 29 February 2024

**by David English BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27 June 2024**

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**Appeal Ref: APP/P5870/D/23/3327550**

**42 Stoughton Avenue, Sutton SM3 8PQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Frankie Chan against the decision of the Council of the London Borough of Sutton.
  - The application Ref. is DM2023/00892.
  - The development proposed is prior approval for a single storey rear extension projecting from the rear of the original house by 6m.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. I have used the description of development in the Council's decision notice rather than that in the application since this better describes the proposal.
3. The government published a revised National Planning Policy Framework (the Framework) in December 2023. This does not materially change the planning policy context in respect of the main issue, and I have determined the appeal on the basis of the new Framework.
4. Under Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), planning permission is granted for the enlargement of a dwellinghouse subject to limitations and conditions.
5. There is no dispute that the proposal meets the limitations set out at paragraph A.1. of Part 1 of the GPDO. However, the Council received a written objection to the proposal from the occupier of an adjoining premises. The condition set out at paragraph A.4.(7) of Part 1 of the GPDO requires that *'Where any owner or occupier of any adjoining premises objects to the proposed development, the prior approval of the local planning authority is required as to the impact of the proposed development on the amenity of any adjoining premises.'* I have considered the appeal on the same basis.

## Planning Policy

6. The Council's reason for refusal refers to the proposal being contrary to a development plan policy. However, the principle of development is established by the GPDO and the provisions of Schedule 2, Part 1, Class A do not require consideration of the development plan. Therefore, I have had regard to the

policies of the development plan drawn to my attention only in so far as they are material considerations relevant to the impact of the proposed development on the amenity of any adjoining premises.

7. Policy 29 of the Sutton Local Plan 2016 – 2031 (February 2018) (the LP) is a material consideration since it relates to issues of amenity for existing nearby residents. In particular, the policy seeks to ensure that proposed development does not adversely affect the amenities of adjoining properties in respect of outlook, sunlight, and daylight.

### **Main Issue**

8. The main issue is the effect of the proposed development on the amenity of the occupiers of the adjoining premises with particular regard to outlook and light.

### **Reasons**

9. The appeal site is an end-terrace two-storey house with a small single-storey lean-to extension to the rear which covers the majority of the width of the dwelling and is shown on the plans as being a sunlounge. The property has a long, generally level, rear garden similar to neighbouring properties. The rear garden is separated from 44 Stoughton Avenue by boundary fencing at around head height, and some relatively tall but thin shrubs are present in that neighbouring garden, close to and along a significant part of the common boundary with the appeal site.
10. The proposed extension would involve removing the existing sunlounge and replacing it with a pitched roof extension which would project 6 metres from the original rear wall of the appeal dwelling. The proposed extension would largely cover the width of the dwelling apart from a small inset from the boundary with No 44, sufficient to accommodate the soffit and guttering required for its shallow pitched roof. The application form shows the proposal as being 3.7m to its ridge and 2.9m at its eaves which would be substantially taller than the current boundary fencing.
11. No 44 has a small rear extension across part of its width which appeared to be a utility room. There is a patio area in the rear garden of No 44 immediately outside patio doors in the original rear wall of that dwelling. This patio area is adjacent to the common boundary with the appeal site and would be bounded by the side wall of the proposed extension were the appeal to be allowed.
12. The proposed extension would project a significant distance beyond the adjoining dwelling along the shared garden boundary. Its blank wall and solid form, which would significantly exceed the height of the existing fence, would be a dominant and enclosing feature. No 44 lies to the north of the appeal site and therefore the proposed development has the potential to cause a loss of sunlight to the neighbouring patio area and ground floor rooms in the rear of that property during the morning.
13. The combination of the orientation of the proposed development in relation to No 44, its depth, height and bulk, and its proximity to the rear windows and rear garden of No 44 would result in the creation of a dominant and visually intrusive, tall, enclosing structure which would be harmful to the outlook from the patio area and rear ground floor rooms for the occupiers of that neighbouring dwelling. Notwithstanding the presence of the vegetation close to the common boundary, a large solid and permanent feature as proposed would

adversely affect both the outlook from No 44 and levels of sunlight at certain points of the day within that dwelling and its rear garden. As a result, the rooms within the ground floor of No 44 and the patio area would be less attractive for its occupiers to use. In these respects, the proposal would result in an unacceptable impact on the amenity of those neighbouring occupiers.

14. The proposed development would be set away from the shared boundary with 40 Stoughton Avenue, and that dwelling is located in the next terraced block in the street being separated from No 42 by a shared driveway. The Council did not find any harm would arise to the living conditions of the occupiers of No 40 and, based on my observations during my site visit, I see no reason to disagree with its assessment. Furthermore, the proposal would be some considerable distance from the school campus to the rear of the site and would cause no harm to that premises.
15. The appellant states that other dwellings on Stoughton Avenue have been given planning permission or prior approval for rear extensions projecting 6 metres, including at Nos 66, 68 and 76. However, I have not been provided with further details of those instances and therefore I am unable to draw any comparisons with the proposal before me. Moreover, in any event, the presence of other rear extensions in the vicinity of the appeal site would not, in itself, justify harmful development as would arise in this instance. I therefore afford these examples very little weight and I have determined the appeal solely on the issue of the effect of the proposal on the amenity of any adjoining premises, as I am required to do by the terms of the GPDO.
16. The appellant contends that the proposal would not have an adverse effect on the character or appearance of the area. However, this is not a matter to which I need have regard since it is not a consideration required by the GPDO, nor is it a matter in dispute between the main parties.
17. I note that the proposal would create additional space for the occupiers during the current climate of working remotely. However, this benefit to the appellant would not justify the harm that would arise to the amenity of the occupiers of No 44.
18. For the above reasons, while I find the proposal would not unacceptably harm the living conditions of occupiers of No. 40, the proposed development would fail to provide acceptable living conditions for the occupiers of No.44 having regard to outlook and light. Consequently, in so far as it is relevant, it would be contrary to Policy 29 of the LP.

## **Conclusion**

19. For the reasons given above, I conclude that the appeal should be dismissed.

*David English*

INSPECTOR