



Appeal Decision

Site visit made on 22 July 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2024

Appeal Ref: APP/L5240/D/24/3339080

72 Oakley Road, South Norwood, Croydon, London SE25 4XQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mrs B Aimable against the decision of the Council of the London Borough of Croydon.
- The application Ref is 23/04447/CONR.
- The application sought planning permission for the erection of a single-storey rear extension and alterations, without complying with a condition attached to planning permission Ref 22/02010/HSE, dated 22 February 2023.
- The condition in dispute is No 2 which states that: The development shall be carried out entirely in accordance with the approved drawings and supporting documents submitted with the application listed below:
 - PL.002 Rev. A -- Site Location Plan
 - PL.102 Rev. A -- Proposed Ground Floor and Roof Plans
 - PL.202 Rev. B -- Proposed Rear and Side Elevations; and
 - PL.301 Rev. B -- Existing and Proposed Sections A-A.
- The reason given for the condition is: For the avoidance of doubt, and to ensure that the development is carried out in full accordance with the approved plans in the interests of proper planning.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a single-storey rear extension and alterations at 72 Oakley Road, South Norwood, Croydon, London SE25 4XQ, in accordance with application Ref 23/04447/CONR, without compliance with condition No 2 previously imposed on planning permission Ref 22/02010/HSE dated 22 February 2023 and subject to the attached Schedule of Conditions.

Preliminary Matter

2. The Council has confirmed that the references to plans PL.202 Rev B and PL.301 Rev B in condition No 2 should in fact refer to plans PL.202 Rev A and PL.301 Rev A. I have considered the appeal on this basis.

Background and Main Issue

3. Planning permission was granted in February 2023¹ for a single storey rear extension and alterations to the building. The original permission included

¹ Application ref 22/02010/HSE, the 'original application/permission/approved scheme'.

Condition No 2 as set out in the banner heading above which requires the proposal to be carried out in accordance with the approved drawings. The condition was imposed 'for the avoidance of doubt, and to ensure that the development is carried out in full accordance with the approved plans in the interests of proper planning.'

4. The appellant sought to vary the condition by replacing the references to drawings PL.102 Rev A and PL.202 Rev B with references to drawings DPM882/01 and DPM882/02. The Council indicates that the consequence of this would be to also remove the reference to drawing PL.301 Rev B. The reason given was to extend the rear extension by 600mm to ensure the existing sewer can be adequately protected, due to it passing under the building. This was refused by the Council which considered that by virtue of its depth, height and proximity to an adjoining property, the proposed development would result in an undue loss of outlook from an adjoining dwelling (70 Oakley Road).
5. Therefore, the main issue in this appeal is the effect of the proposed development on the living conditions of the occupiers of 70 Oakley Road, with particular regard to outlook.

Reasons

6. The appeal site is located within a residential area. It comprises a two-storey end-terraced dwelling with a rear outrigger which has been extended to the side at ground floor level. The outrigger is attached to a neighbouring one at 70 Oakley Road (No 70). There is a ground floor room window on the outrigger at No 70, facing into the rear garden.
7. There is no extension projecting beyond the existing outrigger at 68 Oakley Road (No 68). Due to the position of the outriggers, there is a reasonable gap between the ground floor rear opening at No 70 and the boundary with No 68. The absence of projecting extensions and the separation distance between the ground floor window at No 70 and the mutual boundary with No 68 mean that there is a relatively open outlook from the rear room at No 70 on that side.
8. The proposed single storey rear extension would project approximately 3.6m beyond the existing outrigger, around 0.6m further along the mutual boundary with No 70 than the approved scheme. It would lie within the 45-degree outlook visibility splay from the centre of the neighbouring ground floor window. However, when taking account of the current arrangement to the rear of No 70, whereby there is a somewhat open aspect towards No 68, and given the modest height and depth of the proposed extension, the proposal would not be overly dominant or harmful to the outlook of occupiers at No 70.
9. The Council considers that the proposal is a major material amendment which does not benefit from the provision in section 73 of the Act. However, as the scope of section 73 is not limited to minor material amendments, this is not a test that should be applied to an application under this section of the Act.
10. The reason for refusal refers to part A of the Housing Design Standards London Plan Guidance 2023, but it is unclear how this relates to the proposed scheme.
11. Consequently, I conclude that the proposal would not harm the living conditions of the occupiers of 70 Oakley Road, with particular regard to outlook. It would comply with Policies D3 and D6 of the London Plan 2021 and Policy DM10 of the Croydon Local Plan 2018. Together, these seek to protect

the amenity of the occupiers of adjoining buildings, including in respect of outlook, amongst other things.

Other Matters

12. There is concern about the effect of the proposal on light to rear windows at 74 Oakley Road (No 74), particularly given the L shapes of the dwellings. There is a gap between the host property and No 74, with pedestrian accesses to the rear gardens. Due to the separation distance between the proposed extension and the rear windows on the neighbouring property, the scheme would not cause undue loss of light to rear rooms in No 74.
13. Concern has also been raised that the sewer location should have been known at the time of the original application and that further information should have been provided to justify the larger proposed extension. However, my decision is based on the merits of the proposal before me, and I have found that it would not harm the living conditions of neighbouring occupiers.
14. The appellant's general concerns about their interactions with the Council during the application process is a matter between those parties and does not in this instance have any bearing on my determination of this appeal.

Conditions

15. By allowing this appeal, a new planning permission is created. The guidance in the Planning Practice Guidance (PPG) makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect.
16. The PPG outlines that the time limit within which the development must be started cannot be amended so I have altered the timescale condition to reflect 3 years from the date of the original permission.
17. For certainty, a condition is required to ensure the development is completed in accordance with the approved plans.
18. A condition relating to external materials is necessary to protect the character and appearance of the area. I have also attached a condition requiring the implementation of fire safety measures to ensure the future safety of occupiers of the development. Further, a condition requiring that no part of the roof be used as an outdoor amenity area is necessary to protect the living conditions of occupants of nearby properties.

Conclusion

19. I conclude that the proposal would accord with the development plan and there are no material considerations that outweigh this finding. Accordingly, the appeal is allowed.

A Wright

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun not later than 22 February 2026.
- 2) The development shall be carried out entirely in accordance with the approved drawings and supporting documents submitted with the application listed below:
 - PL.002 Rev. A - Site Location Plan
 - DPM882/01 - Existing and Proposed Plans; and
 - DPM882/02 - Existing and Proposed Elevations.
- 3) The materials to be used for the external surfaces and finishes of all buildings/structures of the development hereby approved shall be in accordance with the materials/finishes described in the Application Form and Approved Plans listed in Condition 2.
- 4) The fire safety measures identified and proposed in the Fire Safety Statement prepared by GP Surveys and submitted with the application shall be implemented prior to the first occupation of the approved development and, thereafter, maintained as such for the life of the development.
- 5) No part of any roof shall be used as or altered to form a balcony, roof garden, roof terrace or similar amenity area.