



Appeal Decision

Site visit made on 23 July 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2024

Appeal Ref: APP/P5870/W/24/3338649

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 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Christopher Fordham against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2023/01154 was approved on 21 September 2023 and planning permission was granted subject to conditions.
 - The development permitted is the erection of rear/flank dormer extensions and installation of a flank rooflight and removal of the rear/flank chimney stack.
 - The condition in dispute is No 4 which states that: The upper floor level windows in the flank elevation(s) of the development hereby approved shall be glazed with obscure glass and fixed shut to a height of 1.7 metres above the finished floor level of the room in which the windows are installed in a manner that they cannot be opened and retained thereafter.
 - The reason given for the condition is: To safeguard the current level of privacy enjoyed by the occupants of adjoining properties in accordance with and to ensure compliance with Policy 29 of the Sutton Local Plan 2018.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission was granted for the erection of rear/flank dormer extensions and installation of a flank rooflight and removal of the rear/flank chimney stack. The appellant is seeking the removal of condition 4 set out in the banner heading above. The condition was imposed 'to safeguard the current level of privacy enjoyed by the occupants of adjoining properties in accordance with and to ensure compliance with Policy 29 of the Sutton Local Plan 2018'.
3. Therefore, the main issue in this appeal is whether condition 4 is necessary and reasonable to safeguard the living conditions of neighbouring occupiers, with particular regard to privacy.

Reasons

4. The appeal site is in a residential area, comprising a flat within the roofspace of a large, detached building. It lies adjacent to dwellings at 136 Burdon Lane (No 136) and 5 Downs Side (No 5). There is an existing side glazed door to the kitchen which provides access to an external staircase.
5. There are views of the rear garden and flank of No 136 through the existing glazed kitchen door but these are partly obscured due to the lower room level,

glazing dividers and external staircase railing. The proposed extension would provide an office/lounge with two large windows, sited rearward of the kitchen door. The appellant is willing to accept a condition requiring the windows to be fixed shut to a height of 1.7m above finished floor level. However, due to their size and position, the proposed windows without obscure glazing would result in increased and direct overlooking of the whole rear garden of No 136, causing undue loss of privacy to the occupiers of this neighbouring property.

6. No 5 adjoins the appeal site to the rear, with a very high hedge along the mutual boundary. At my site visit, I observed that the hedge obscured views of the rear garden and windows at No 5 from the appeal property. The proposed dormer would be located side on to the neighbouring grounds at No 5 and, due to this angle and the presence of the boundary hedge, the proposal would not cause undue overlooking to the garden and rear rooms at No 5.
7. I note that obscure glazing in the only windows serving the proposed office/lounge would restrict the outlook from this habitable room and that Policy 29 of the Sutton Local Plan 2018 (LP) requires consideration to be given to this. However, as other habitable rooms in the flat have clear glazed windows, condition 4 would not cause a harmful sense of enclosure to existing occupiers. Further, whilst there are concerns that obscure glazing would affect light transmission, there is little evidence that two large obscure glazed windows would result in harmful levels of light to the proposed office/lounge.
8. In determining a recent appeal for similar dormers on the site¹, an Inspector considered that clear glazed windows would not increase the extent of No 136 that can already be seen. Nevertheless, the Inspector also found that obscure glazing would limit the opportunities for additional overlooking and protect these neighbours from a further reduction of their privacy, and my finding is consistent with this.
9. Policy 29 of the LP seeks to protect the amenities of those currently occupying nearby properties, including taking into account the impact of proposed development on overlooking causing loss of privacy. As I have found that the proposal without obscure glazing would harmfully overlook the occupiers of No 136, it would conflict with Policy 29.
10. Therefore, I conclude that condition 4 is necessary and reasonable to safeguard the living conditions of neighbouring occupiers, with particular regard to privacy.

Other Matters

11. The Council did not find harm or development plan conflict in relation to several other matters, including design, impact on heritage assets, trees, fire safety, highways and parking. However, even if I were to agree with the Council on these points, the absence of harm would be a neutral matter which would not carry weight in favour of the proposal.

Conclusion

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

A Wright INSPECTOR

¹ Appeal Ref: APP/P5870/W/22/3306911