



Appeal Decision

Site visit made on 8 July 2024

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2024

Appeal Ref: APP/T5720/W/23/3333588
66 Central Road, Morden, Surrey SM4 5RP

- 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 Jimmy Pathadan against the decision of the Council of the London Borough of Merton.
 - The application Ref. 21/P2935 was approved on 24 May 2023 and planning permission was granted subject to conditions.
 - The development permitted is the erection of a two storey side and rear extension to form a two bedroom house (as subsequently amended).
 - The condition in dispute is No. 2 which states that: *'The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan and drawings TSL/66/02 (dated 28/4/23), TSL/66/05 (dated 28/4/23) and TSL/66/06 (dated 28/4/23).'*
 - The reason given for the condition is: *'For the avoidance of doubt and in the interests of proper planning'.*
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Decision

1. The appeal is allowed and the planning permission Ref. 21/P2935 for the erection of a two storey side and rear extension at 66 Central Road, Morden, Surrey SM4 5RP granted on 24 May 2023 by the Council of the London Borough of Merton is varied by deleting condition no. 2 and substituting for it the following condition: *'2. The development hereby permitted shall be carried out in accordance with the following approved plans: OS Location Plan and the following Drawing Nos. all dated 30/05/22: TSL/66/01; TSL/66/02; TSL/66/03; TSL/66/04; TSL/66/05; TSL/66/06; TSL/66/07; TSL/66/08'.*

Main Issues

2. The main issues are whether the amended plans now proposed for condition No. 2 would (i) ensure that the proposed development would have an acceptable effect on the character and appearance of the host dwelling and the street scene & (ii) provide adequate living conditions for adjoining occupiers.

Reasons

3. The processing of this appeal has been difficult. The Council has erroneously deleted the Officer Report and as a result provided no evidence. The appellant's evidence lacks clarity, including a failure to identify the condition to which he objected; full information of the proposals, and the plan numbers remaining the same despite multiple amendments with only the dates to differentiate them. In this context, the initial scheme was amended at the Council's request

- on five occasions over a period of 20 months between the planning application being made and a conditional grant of permission.
4. Against this complicated background the Council says that the appeal is invalid, but from all that I have seen and read I am satisfied that it relates to condition no 2 which requires the development permitted to be in accordance with the approved plans. Whilst this is a standard condition the appellant's argument is that although he agreed to submit amended plans dated 30 May 2022, he felt obliged to submit to four further Council requests for amendments because not to do so would result in a refusal. The appellant considers the Council's approach for these further amendments to be inconsistent and unreasonable in that having agreed to the 30 May 2022 proposal, these subsequent alterations were then required and in part were in direct conflict with previous officer requests.
 5. As indicated I do not have the benefit of the Council's side of the story but the salient point is that the permission granted does not meet the appellant's and his extended family's requirements. And the appeal has been made to allow the development on the basis of the first amendment, with the plan series dated 30 May 2022 as opposed to the plans dated 28 April 2023 and listed in the Decision Notice.
 6. As originally submitted the plans showed a two storey addition across the whole width of the rear of the building and I consider that this wrap-around would have been of a poor design, overly bulky and potentially harmful to the living conditions for the occupiers of the adjoining No. 64. However, in the first amendment (for which permission is now sought in this appeal) this wrap-around was deleted. A proposed two storey side extension remains as part of the proposal albeit projecting at that height to the rear beyond the existing wall. Further amendments required by the Council concerned the reduction of the rearward element to single storey height and other alterations including several relating to internal features of the building.
 7. In my view, the amendment dated 30 May 2022 is acceptable firstly because the rear part of the extension would for the most part not be noticeable in the street scene of Central Drive and would thereby have no harmful effect on the character and appearance of the area. As regards No. 66 itself, I acknowledge that the extension would affect the symmetry of the terrace of three buildings. However, this would not be obvious in any single public view because of the terrace's position, both set back from the highway and on the corner of the junction. The fact that the Council granted a permission would appear to indicate its agreement with this aspect of the proposal.
 8. Secondly, I do not regard the extension as being harmful to the outlook from, and the light to, No. 64. The building would be set away from the boundary with the first part of this neighbour's garden and would be seen in tangential rather than direct views from the rear windows of No. 64. This relationship would in my view additionally preclude any significant harmful effect on the amount of light reaching the habitable rooms of No. 64.
 9. As I find no significant harm on the main issues I shall allow the appeal. In so doing I accept that technically the application has already been amended to a different form. However, it would appear that no objections from neighbours or other third parties have been received during the various amendments, including from No. 64. And in the absence of any evidence from the Council I

am on balance minded to accept the appellant's complaints of the Council's inconsistency. A delay of 20 months is also clearly unacceptable.

10. I shall therefore replace the disputed condition as I am satisfied that the amended scheme submitted in June 2022 (with plans dated 30 May) would cause no harm in terms of the main issues of the effect on the character and appearance of the host dwelling and its surroundings, and on the living conditions for the occupiers of No. 64.
11. For the avoidance of doubt, I remind the appellant that there must also be full compliance with the other conditions in the existing Decision Notice when the development takes place.

Martin Andrews

INSPECTOR