

SECTION '2' – Applications meriting special consideration

Application No : 11/03928/FULL6

Ward:
Kelsey And Eden Park

Address : 82 Manor Way Beckenham BR3 3LR

OS Grid Ref: E: 537539 N: 168562

Applicant : Mr Nigel Brown

Objections : YES

Description of Development:

Roof alterations to enclose balcony area, dormer extension to existing garage and elevational alterations

Key designations:

Conservation Area: Manor Way Beckenham

Biggin Hill Safeguarding Birds

Biggin Hill Safeguarding Area

Flood Zone 2

London City Airport Safeguarding

Proposal

- There is a varied planning history at this site and this application is the culmination of a number of prior applications, including a refusal relating to a retrospective application and enforcement proceedings being taken.
- The proposal seeks to regularise the existing development on site, by enclosing the existing roof terrace.
- At present, there is a roof terrace to the rear of the host dwelling at second floor level, above the first floor rear extension.
- The current proposal seeks to extend the roof of the host dwelling at the rear to be in line with the existing pitched roof over the first floor rear extension, so that the terrace is built over and effectively removed.
- Two small areas of flat roof will remain, to the side of the extended roof area. These do not appear to be accessible, as there will be no doorways or windows in the flank elevations of the extended roof.
- Whereas at present there are French doors in the rear elevation which provide access out on to the flat roof terrace area, the intention of this current application would be remove the majority of the flat roof area and to prevent access out of the dwelling at this level, attempting to overcome the concerns raised relating to previously refused development and the fairly recent Appeal Decision.

- Elevation alteration – windows in flank elevations of the first floor rear extension have been installed, but at present do not appear to benefit from planning permission, nor do they comply with the Inspector’s findings following the appeal against the enforcement notice – the window at first floor level in the southern flank elevation should be fixed shut and obscure glazed. The Inspector found that this would be reasonable and in line with good neighbourliness and would safeguard living conditions. This was a requirement of the Appeal Decision but has so far not been complied with.
- The application also seeks to regularise development that has already taken place on the existing garage in the form of a dormer window to the southern roof slope of the garage and elevation alterations.

Location

The application site hosts a two storey detached property with habitable accommodation within the roofspace, located on the western side of Manor Way. The property falls within the Manor Way, Beckenham Conservation Area. The road is mainly fronted by large detached properties all of varying design, on similar sized plots. The majority of the properties along this road are built to a regular building line.

Comments from Local Residents

Nearby owners/occupiers were notified of the application and representations were received which can be summarised as follows:

- as built drawings show the presence of full height windows in both side elevations of the 2nd floor rear room;
- these windows are not present in the existing building nor are they present in the proposed plans as submitted;
- the ‘as built’ plans are there inaccurate;
- ‘as built’ floor plan does not demonstrate the window on the side elevation of Bedroom 1 but this window is present in the ‘as built’ elevation drawings;
- not apparent from plans whether the occupant(s) would still be able to access the 2 flat roof sections on the rear of the property on the 2nd floor from the existing rear doors;
- if this were a possibility then this would affect the privacy aspect of neighbouring properties;
- no windows, doors or skylights should be permitted to the 2nd floor side elevations;
- if the windows shown in the ‘as built’ 2nd floor elevations were installed, there would be direct access to the two flanking flat roof areas shown on the new plans;
- the five proposed skylights should be installed at head height and only capable of limited opening to protect privacy of neighbouring properties;
- as directed in the Enforcement Order (not complied with), the 1st floor window on the southern flank wall facing No.84 should be removed;
- side windows have not been removed or sealed/frosted glass as required by the Inspectorate;

- proposed second floor dormer significantly increases the second floor space to an even greater degree than the 2005 approved application;
- garage dormer and garage alterations are not in keeping with the characteristics of the Manor Way Conservation Area;
- proposal results in a significant overdevelopment which is unbalanced and detrimental to the conservation area;
- request that the applicant adheres to the findings of the Inspectorate.

Comments from Consultees

Advisory Panel for Conservation Areas raised objection to the current proposal – it does not comply with Policies BE1, BE11, and SPG paragraphs 3.17 and 3.18. APCA believe the originally permitted scheme, approved in 2005, should be completed.

Planning Considerations

The application falls to be determined in accordance with the following policies of the Unitary Development Plan:

BE1 Design of New Development
 BE11 Conservation Areas
 H8 Residential Extensions
 H9 Side Space

Recently, most of the Central Government Planning Policy Statements and Planning Policy Guidance notes have been replaced by the adopted National Planning Policy Framework (NPPF). This is also a material consideration for the determination of the application.

Planning History

There is a varied history at this site and this application is the culmination of a number of prior applications, including a refusal relating to a retrospective application and enforcement proceedings being taken.

In terms of relevant planning history at the site, this can be summarised as follows:

In 2004 under reference DC/04/00386, permission was granted for a single storey rear extension.

In 2005, permission was granted under reference DC/05/03804 for a first floor rear extension with accommodation in roof including front and rear dormers. The building works for this development was started however was not built in accordance with the approved plans. The actual building works was considered to be materially different due to the raised balcony and the installation of a window to the side elevation.

In order to rectify this, a retrospective application was submitted in 2008 under reference DC/08/03516 for a first floor rear extension, front and rear dormer

extensions, new window to side elevation and balcony at rear. This application was refused for the following reason:

- The provision of the second floor balcony gives rise to undesirable overlooking of the neighbouring properties, resulting in lack of privacy and amenities for the residents of the neighbouring properties, contrary to Policies BE1 and H8 of the Unitary Development Plan.

A further retrospective application was submitted in 2009 under reference DC/09/00752 for a first floor rear extension with accommodation in roof including rear dormer extension with windows in the flank elevations, balcony at rear, first floor window in southern flank elevation and front dormer extensions with pitched roofs and glazed flank elevations. This application was never determined. After discussions with the Council's Legal Department, the view was taken by the Local Planning Authority that the application was not valid due to irregularities between the plans and Design and Access Statement.

Enforcement proceedings were taken in order to restore the built development to the originally approved scheme from 2005. An Appeal was submitted by the applicant against the Enforcement Notice, and in November 2010 the Decision came through where the Inspector gave a split decision.

The Inspector stated that the breach of planning control as alleged in the notice is 'without planning permission, the unauthorised construction of a dormer window and balcony area on the second floor of the rear elevation and insertion of one first floor window on the southern flank wall of the rear extension.'

The Inspector noted that whilst sympathetic materials had been used, however the variations in the appearance of the rear roof are not typical of the wider area, thereby failing to preserve or enhance the character or appearance of the wider conservation area, due to the scale of the roof alteration and the size and shape of the balcony. As such, the inspector considered that the alterations do not satisfy the main thrust of Policy BE1 of the Unitary Development Plan (UDP) and the Council's Supplementary Planning Guidance (SPG).

During the Appeal, the applicant stated in effect that the majority of the development could be carried out under 'permitted development' tolerances, however the Council disputed this within their Appeal Statement, and the Inspector agreed with the Council. It was considered that the extensions and alterations to the roof of Number 82 involves the construction and provision of a balcony area, which conflicts with paragraphs (i) (i) of Class A and (d) (i) of Class B. In addition, as the property is located within a conservation area, additional criteria would also need to be met, as such little weight was attached to the fallback argument provided by the appellant.

The additional window in the southern flank elevation was not part of the development which the Inspector found unacceptable. The view was taken that although there are existing openings in the rear that permit daylight but an additional window would not disrupt the rhythm of the side elevation. The additional window was not considered to be harmful to the design of the host property or the

character or appearance of the wider area, therefore this element of the appeal scheme was considered to be acceptable. The window however, was considered on balance to preserve the character and appearance of the dwelling and surrounding area.

The main issue however, relating to the rear dormer extension and balcony area, was considered to have a materially harmful impact on the character and appearance of the existing dwelling and that of the surrounding area. Whilst the Inspector stated that they had taken into account the appellant's arguments about the siting of the balcony, the view remained that users of the balcony would have direct views of the adjoining gardens, due to the elevated position. The raised area was considered to cause significant loss of privacy and neighbours' sense of being overlooked is likely to increase because of unimpeded views. The overall dimensions and shape of the platform would therefore also be likely to have an intrusive effect and the amenity value of gardens next door would be unacceptably reduced.

Whilst screening was suggested by the appellant, the Inspector believed that such measures would not be sufficient to overcome the concerns because of the layout, design and scale of the raised platform.

The Inspector concluded that the balcony was considered to be harmful to the living conditions of nearby residents, but on balance, the side elevation window to the extension would not be materially detrimental to the living conditions of nearby residents, provided the window is fixed shut and fitted with obscured glazing. Indeed Paragraph 17 of the Appeal Decision stated in effect that the notice seeks to remedy the breach of planning control by making the development comply with the terms and conditions of the 2005 planning permission, which is derived from s173(4)(a). On the basis of the evidence put forward to the Inspector, he found no lesser steps that would remedy the breach of planning control. The step to re-instate the roof structure to reflect the design and appearance of the approved 2005 scheme is no more than what is necessary to comply with the terms of the notice and so the requirement to remove the balcony is not excessive.

As such, the Inspector stated that the appeal was allowed insofar as it relates to the insertion of one first floor window on the southern flank wall of the rear extension. Planning permission was granted subject to the following condition:

- 1) The first floor window on the southern flank wall of the rear extension hereby permitted shall be removed and all materials resulting from the demolition shall be removed within six months of the date of failure to meet the following requirement:-
 - i) within 3 months of the date of this decision, the first floor window on the southern flank wall of the rear extension as shown highlighted in yellow on the Plan attached to the notice Numbered 2 (Drawing Number 1084 – 11 Rev 1) shall be fixed-shut and fitted with obscured glazing and shall be permanently retained in that condition.

The Inspector further directed that the notice be varied by the deletion of the words 'two months' and the insertion of the words 'six months' as the period for compliance.

The Inspector dismissed the appeal and upheld the notice as varied insofar as it relates to the unauthorised construction of a dormer window and balcony area on the second floor of the rear elevation and planning permission was refused in respect of the unauthorised construction of a former window and balcony area on the second floor of the rear elevation on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Most recently, application DC/11/01525 was refused for rear dormer extension to include flat roof at second floor level for the following reason:

The second floor balcony gives rise to undesirable overlooking of the neighbouring properties, resulting in lack of privacy and amenities for the residents of the neighbouring properties, contrary to Policies BE1 and H8 of the Unitary Development Plan.

Conclusions

Members may consider that the main issues relating to the application are the effect that the development has upon the character and appearance of the existing dwelling and that of the surrounding Manor Way Conservation Area, and also the impact that it has on the living conditions and amenities of the occupants of surrounding residential properties, with particular regard to overlooking and loss of privacy. It is also important to assess the current scheme in relation to the comments outlined within the decision made by the Inspector during the recent appeal against the enforcement notice.

The main issues raised by the Inspector are discussed in the preceding section of this report, but the summary of the conclusion was that the window in the southern flank elevation, provided it is fixed shut and obscure glazed, was acceptable and unlikely to lead to a detrimental impact upon the character of the area and the amenities of the neighbouring residents. The balcony area however, was considered to be harmful to the living conditions of the nearby residents due to the elevated positioning, increased sense of overlooking and due to the overall dimensions and shape of the platform, it would have an intrusive effect and the amenity value of next-door gardens would be unacceptably reduced.

The Inspector concluded by stating in effect that the steps to re-instate the roof structure to reflect the design and appearance of the approved 2005 scheme is no more than what is necessary to comply with the terms of the notice and so the requirement to remove the balcony is not excessive. The Inspector stated that there would be no lesser steps that would remedy the breach of planning control.

Whilst the current application does not seek to reinstate the 2005 approved application, Members may wish to consider whether the proposed alterations in comparison to the approved scheme are worthy of approval or whether they remain unacceptable.

The main differences between the approved 2005 scheme and the current application can therefore be set out as follows:

- dormer window and elevation alterations to existing garage to rear of dwellinghouse;
- reduction in overall height of roof over the extension by approximately 0.7 metres below ridge height of the host dwelling;
- overall depth of rearward projection remains similar, with the exception of the approved rear dormer extension which has not been built and does not form part of the proposed scheme;
- addition of one window in the first floor northern and southern flank elevations of the extension – these were discussed by the Inspector but their findings have not been complied with, therefore should be considered as part of the current application;
- removal of terrace area at second floor level (above first floor rear extension);
- removal of dormer extension (within roof slope of roof above first floor rear extension as approved but not built);
- insertion of roof light windows in rear roof slope of proposed extended roof (in place of existing French doors);
- increase in height of windows in rear elevation of first floor rear extension.

From looking at the 2005 approved amendment, it can be seen that one window was approved in each flank elevation of the gable feature of the host dwellinghouse at second floor, roofspace level. This element therefore already benefits from planning permission, however neighbours have noted that the windows in the first floor flank elevations do not benefit from permission and the first floor window in the southern flank in particular was discussed by the Inspector. In order for this particular window to be considered acceptable, the Inspector stated that it should be obscure glazed and fixed shut within 3 months of the date of the Appeal decision notice. To date this does not appear to have been carried out, therefore must be re-considered by Members as to the acceptability of a clear-glazed window at this level of the property. Members may agree with the Inspector that should this window be obscure glazed and fixed shut it would be acceptable as it would minimise the level of overlooking and possibility of direct loss of privacy to the neighbouring property, however as the plans do not indicate that this will in fact be carried out, Members may find that a clear-glazed window is unacceptable as it would lead to direct loss of privacy and overlooking of the neighbouring dwelling. Members may feel that imposing a condition seeking this window to be obscure glazed and fixed shut in this instance may not be effective, especially considering that the initial Appeal decision notice was not complied with.

Members may consider that the overall bulk of the proposed scheme will effectively be reduced when compared with the 2005 approved scheme, by reducing the overall height of the ridge of the roof over the first floor rear extension, and by not implementing the rear dormer extension as approved in 2005. However careful consideration should be given as to whether Members agree with the Inspector's findings, that the development on site should revert fully to the approved development of 2005, or whether this altered scheme is acceptable. There remains

two small areas of flat roof to the side of the extended roof, and neighbours have raised concerns that these areas will continue to be used as balcony areas. However there is no proposed access to these areas and should Members find this proposal acceptable, a condition could be imposed to prevent any further alterations to the flank elevations which would then enable access to these flat roof areas.

When looking at the rear elevation of the proposed scheme, Members may consider that the design would appear more fragmented than the approved 2005 scheme. By extending the existing roof to enclose the terrace area, this will effectively follow a similar angle of the roof slope as approved in 2005. However as the flank elevations are to be stepped in from the flank elevations of the existing roof above the first floor rear extension, with the flank elevations then rising parallel to the main gable features of the main roof of the host dwellinghouse, this could appear incongruous with the design of the host dwelling. Indeed, APCA have raised objection to the scheme, stating a preference for the design of the scheme approved in 2005 and effectively agreeing with the findings of the Inspector, that the 2005 scheme should be reverted to.

In terms of the dormer window and elevation alterations to the existing garage, Members may find that this element of the overall scheme is unlikely to have an adverse impact upon the amenities of the residents of neighbouring properties. Provided the use of the extended garage remains ancillary to the host dwellinghouse, and the proposal does not indicate otherwise, Members may find that this aspect of the application is acceptable.

As such, Members may wish to carefully consider whether the proposal when compared to the 2005 permitted scheme that the Inspector referred to during consideration of the Enforcement Appeal is acceptable in terms of the alterations to the bulk and massing of the proposed extensions and the impact that they may have upon the amenities of the residents of the neighbouring properties, or whether the impact would be too great and would adversely affect the amenities in such a way that permission should be refused. Members are requested to pay particular attention to the comments made by the Inspector as highlighted in the earlier part of the report, and to consider whether the development now proposed is acceptable or whether the 2005 application should still be reverted to.

If Members are of the opinion that the development remains unacceptable as it does not comply with the requirements as set out by the Inspector to revert back to the original development approved in 2005 and is still likely to detract from the privacy and amenities of the residents of neighbouring properties, enforcement proceedings will need to be reinitiated in order to return the structure to the scale and design of the originally approved structure as per DC/05/03804 as amended. The Inspector insisted that there were no lesser steps that should be taken in order to remedy the breach of planning control other than to re-instate the roof structure to reflect the design and appearance of the approved 2005 scheme, and Members may agree with this point of view.

The compliance period for the Appeal decision was six months from the date of issue, which has now passed. As such, should Members wish to refuse the

application, court proceedings should be continued in order to uphold the enforcement notice insofar as it was varied by the Inspector.

Background papers referred to during production of this report comprise all correspondence on files refs. 05/03804, 08/03516, 09/00752, 11/01525 and 11/03928, excluding exempt information.

RECOMMENDATION: MEMBERS' VIEWS ARE REQUESTED

- 0 D00002 If Members are minded to grant planning permission the following conditions are suggested:
- 1 The development to which this permission relates must be begun not later than the expiration of 3 months, beginning with the date of this decision notice.
- 2 ACA01R A01 Reason 3 years
ACC04 Matching materials
ACC04R Reason C04
- 3 The resulting garage structure shall be used only by members of the household occupying the dwelling 82 Manor Way for purposes ancillary to the host dwelling, and shall not be severed to form a separate self-contained unit.

Reason: In order to comply with Policy H8 of the Unitary Development Plan, to ensure that the building is not used separately and unassociated with the main dwelling, and to protect the amenities of the residents of the neighbouring properties.

- 4 ACI13 No windows (2 inserts) flank roof slope roof alterations
ACI13R I13 reason (1 insert) BE1 and H8
- 5 ACI14 No balcony (1 insert) the roof alterations
ACI14R I14 reason (1 insert) BE1 and H8
- 6 No windows or doors additional to those shown on the permitted drawing(s) shall at any time be inserted in all elevation(s) of the roof alterations to host dwelling or garage structure hereby permitted, without the prior approval in writing of the Local Planning Authority.

- 7 ACI17R I17 reason (1 insert) BE1 and H8
ACK01 Compliance with submitted plan

Reason: In order to comply with Policies BE1 and H8 of the Unitary Development Plan and in the interest of the visual and residential amenities of the residents of the neighbouring properties.

- 8 The windows in the first floor flank elevations of the northern and southern flank elevations of the host dwelling hereby permitted shall be obscure glazed and fixed shut at all times unless previously agreed in writing by the Local Planning Authority.

Reason: In order to comply with Policies BE1 and H8 of the Unitary Development Plan, in the interest of the amenities of the adjacent properties and so as to accord with the requirements of the enforcement notice.

- 9 Details of the rooflight windows to be inserted into the rear roof slope of the roof alterations hereby permitted, including their materials, method and degree of opening, shall be submitted to and approved in writing by the

Local Planning Authority before any work commences. The windows shall be installed in complete accordance with the approved details.

Reason: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the privacy and amenities of the residents of the neighbouring properties.

Reasons for granting permission:

In granting permission the Local Planning Authority had regard to the following policies of the Unitary Development Plan:

BE1 Design of New Development
BE11 Conservation Areas
H8 Residential Extensions
H9 Side Space

The development is considered to be satisfactory in relation to the following:

- (a) the appearance of the development in the street scene;
- (b) the appearance of the development in relation to the character of the area;
- (c) the appearance of the development in relation to the character of the Manor Way Beckenham Conservation Area;
- (d) the relationship of the development to the adjacent properties;
- (e) the character of development in the surrounding area;
- (f) the impact on the amenities of the occupiers of adjacent and nearby properties;
- (g) the light and outlook of occupiers of adjacent and nearby properties;
- (h) the privacy of occupiers of adjacent and nearby properties;
- (i) the housing policies of the development plan;
- (j) the conservation policies of the development plan;
- (k) and having regard to all other matters raised including concerns from neighbours and previous comments of the Appeal Inspector.

D00003 If Members are minded to refuse planning permission the following grounds are suggested:

- 1 The design of the rear elevation results in a fragmented roof extension which is incongruous in appearance and harmful to the appearance of the host dwellinghouse, contrary to Policies BE1 and H8 of the Unitary Development Plan.
- 2 The remaining flat roof area would still form a terrace area, which could give rise to undesirable overlooking of the neighbouring properties, resulting in lack of privacy and amenities for the residents of the neighbouring properties, contrary to Policies BE1 and H8 of the Unitary Development Plan.
- 3 The windows in the first floor flank elevation, subject of the enforcement notice, give rise to undesirable overlooking of the neighbouring properties, resulting in lack of privacy and amenities for

the residents of the neighbouring properties, contrary to Policies BE1 and H8 of the Unitary Development Plan.

Application:11/03928/FULL6

Address: 82 Manor Way Beckenham BR3 3LR

Proposal: Roof alterations to enclose balcony area, dormer extension to existing garage and elevational alterations

