

SECTION '2' – Applications meriting special consideration

Application No : 17/01837/FULL1

Ward:
Penge And Cator

Address : 81A High Street Penge London SE20 7HW

OS Grid Ref: E: 535256 N: 170452

Applicant : Mr E Lueshing

Objections : YES

Description of Development:

Part one/part two storey rear extension and formation of one bedroom split level flat at 81 High Street, SE20 7HW.

Key designations:

Biggin Hill Safeguarding Area
London City Airport Safeguarding
Open Space Deficiency
Smoke Control SCA 1

Proposal

Planning permission is sought for the erection of a part one/two storey rear extension to the host mid-terrace property. It is proposed to extend at first floor level above an existing single storey store which appears to relate to the ground floor commercial premises. The rear wall of this part of the extension would align with the main ground floor rear wall. The first floor element would be set approx. 0.9m from the flank boundary of the site with No. 83. The first floor extension would incorporate a steeply sloping tiled roof between the flank elevation of the ground floor element and a point approx. 1.75m from the boundary.

A two storey extension is also proposed which would be sited adjacent to the boundary with No. 79 and would have a depth of 2.4m and a width of 2.2m and would be sited approx. 3.25m from the boundary with No. 83.

The application property lies on the northern side of the High Street and comprises a three storey mid-terrace building with a ground floor commercial unit with residential accommodation above. The applicant's agent has confirmed that the application proposal "will not affect the floor space or layout of any of the other flats in any way." (letter received 18th July 2017).

Consultations

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

- Object for the same reasons the previous 10 occasions. The level of light lost to the neighbouring house will be unacceptable. The applicant has made no major changes and over the last 10 years has lost 4 appeals.

From a technical highways perspective there are no objections to the proposal.

Planning Considerations

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

BE1 - Design of New Development

H8 - Residential Extensions
H11 - Residential Conversions
T3 - Parking

The following Council adopted SPG guidance are also a consideration:

Supplementary Planning Guidance 1: General Design Guidance
Supplementary Planning Guidance 2: Residential Design Principles.

The Council is preparing a Local Plan. A period of consultation on the proposed draft Local Plan (under the Town and Country Planning (Local Planning) (England) Regulations 2012 as amended) ran from November 2016 and closed on December 31st 2016. It is anticipated that the draft Local Plan will be submitted to the Secretary of State in 2017.

Draft Policies of relevance to the application proposal comprise:

Policy 37 - General Design of Development
Policy 1 - Housing Supply
Policy 4 - Housing Design

The above policies are considered consistent with the objectives and principles of the National Planning Policy Framework. Paragraph 11 of the NPPF states that 'planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.' Paragraph 56 of the NPPF states that the Government attaches great importance to the design of the built environment, and that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to make places better for people. Paragraph 61 of the NPPF states that although visual appearance and architecture are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations.

London Plan

Policy 7.4 of the London Plan states that development should have regard to "the form, function and structure of an area, place or street and the scale, mass and orientation of surrounding buildings. It should improve an area's visual or physical connection with natural features. In areas of poor or ill-defined character, development should build on the positive elements that can contribute to establishing an enhanced character for the future of the area."

Planning History

The site has a complex planning history, which is summarised as follows:

2007 - Planning permission REFUSED under reference 07/02390 for a three/single storey rear extension and mansard roof and alteration to the rear elevation of the existing roof. Permission was refused on the grounds:

"The proposal, by reason of its excessive rearward projection and height, would result in a material loss of amenity due to overlooking, loss of light and prospect for the occupiers of No. 83 High Street, Penge, contrary to Policies BE1 and H8 of the Unitary Development Plan."

2008 - Planning permission REFUSED under reference 07/04332 for a part one/two storey/second floor rear extension/rear dormer extension and 3 rooflights at front to

provide additional facilities for ground floor shop and 5 bedroom dwelling above (part retrospective) on the grounds:

"The extensions are detrimental to the amenities enjoyed by the occupants of No. 83 High Street by reason of loss of daylight, prospect and visual impact, therefore contrary to Policy BE1 of the Unitary Development Plan."

A subsequent appeal against the refusal of planning permission was DISMISSED.

2010 - Planning permission REFUSED under reference 10/01731 for retention of rear dormer extension, front and rear rooflights and single storey extension and proposed first floor rear extension (part retrospective) on the grounds:

"The extensions are detrimental to the amenities enjoyed by the occupants of No. 83 High Street by reason of loss of daylight, prospect and visual impact therefore contrary to Policy BE1 of the Unitary Development Plan." A subsequent appeal against the refusal of planning permission was DISMISSED.

NB. This application was supported by an overshadowing analysis of the extension to 81 High Street, prepared by Flow Analysis Limited and dated 13th March 2009. The proposed extension in this case did not incorporate a set back at first floor level from the boundary.

The OA found that the factor reduction in VSC to window 1 (rear facing) at No. 83 was 0.85 which, being more than 0.8 qualified as a pass. The factory reduction in VSC to window 2 was found to be 0.4 which qualified as a fail.

In dismissing the appeal, the Inspector noted the conclusion in the Overshadowing Analysis that the loss of daylight would be within acceptable standards to one of the ground floor windows and that because of the pre-existing low levels of light the effect of further loss experienced would be negligible. The Inspector did not accept this view, stating "any further loss of light to these rooms would be unacceptable."

2010 - Planning permission REFUSED for the retention of shutters to the shopfront.

2011 - The Council declined to determine application reference 11/03136 for a single storey rear extension (part retrospective) on the grounds that there had been no significant change in relevant material considerations, including the Development Plan since the dismissal of the previous appeal by the Secretary of State.

2011 - The Council declined to determine planning application reference 11/03137 for rear dormer extension, single storey rear extension and shutters to shopfront (part retrospective) on the grounds that, again, there had been no significant change in material planning considerations since the dismissal of the appeal by the Secretary of State.

2012 - Planning permission was granted under reference 12/03300 for the removal of rear section of mansard and construction of replacement rear dormer window.

2013 - Planning permission was granted under reference 13/00614 for the extension of the time limit for the completion of the works under 12/03300.

2013 - Planning permission was GRANTED under reference 12/03299 for two single storey rear extensions and elevational alterations to the rear (part retrospective).

2014 - Planning permission was REFUSED under reference 13/03723 for ground floor elevational alterations, rear extension at first and second floor and conversion to form 1

bedroom maisonette on the grounds that the extensions would be detrimental to the amenities enjoyed by the occupants of No. 83, resulting in loss of daylight, prospect and visual impact. The subsequent appeal against the Council's refusal of planning permission was DISMISSED.

NB. This application incorporated a modest stepping back of the first floor from the boundary. The application was not supported by an overshadowing analysis. The Inspector noted that no detailed information had been provided to demonstrate that the proposed extension would meet the requirements of the BRE guidelines relating to daylighting.

2016 - Planning permission was REFUSED under reference 16/01661 for ground floor elevational alterations, rear extension at first and second floor and conversion to form 1 bedroom maisonette. Permission was refused on the ground:

"The extensions are detrimental to the amenities enjoyed by the occupants of No. 83 High Street, SE20 by reason of loss of daylight, prospect and visual impact, therefore contrary to Policy BE1 of the Unitary Development Plan."

A subsequent appeal against the Council's refusal of planning permission was DISMISSED. The appeal Inspector assessed that the relationship/orientation of the rear elevation of No. 83 together with the scale and proximity of the building meant that the outlook from and levels of light received by the ground floor windows of the adjacent property were poor. As part of the application an overshadowing analysis was provided which confirmed the assessment that the existing daylight levels to the ground floor windows was poor. The OA made the case that the existing daylight levels were poor and therefore that any change in the level of daylight would have a minimal impact. Reference was also made to a large tree in the neighbouring garden and to the fact that a rear window at the neighbouring property would be unaffected by the proposals.

In considering outlook, the Inspector considered that in the appeal pursuant to 13/03723 the then Inspector found no harm to the outlook from No. 83 and also that the extension under consideration was slightly smaller than the previous scheme. Based on that fact it was considered that the proposal would not have had a significant impact on outlook. However, the proposal would result in a harmful loss of daylight to the ground floor side facing dining room/kitchen window at No. 83.

Conclusions

It is helpful to consider the way in which the current proposal differs from that refused planning permission under reference 16/01661. The planning history of a site is a material consideration in the determination of a planning application and in order to assess whether the concerns previously raised regarding the impact of the proposal on daylight to the neighbouring dwelling are overcome it falls to consider whether the current scheme represents a genuine and material improvement in comparison with previous scheme/s.

Under reference 16/01661 the proposal incorporated a two storey sheer rear elevation to the ground/first floor element, with the first floor set slightly in from the existing two storey flank elevation. A further storey above was proposed to be provided in place of what is shown on the current plans as an existing roof terrace, with the flank elevation of this element set further from the party boundary than the ground/first floor elements below. In terms of this separation, the measurements scaled from the refused elevations of the separation to the party boundary were 0.9m (ground floor), 1.42m (first floor) and 1.65m (second floor). The depth of the ground floor and first floor was 1.8m beyond the existing projection. The second floor rear elevation was set back by 0.3m from the ground/first floor sheer elevation below.

The current scheme incorporates a modest two storey extension which would be sited towards the north western boundary of the site and which would be approx. 3.25m from the boundary with No. 83 with a depth of rearward projection beyond the main bulk of the extension of 2.41m. The existing flat roof above the first floor extension would be retained. The main width of the proposed extension would project from this existing built development to the rear by approx. 1.9m. With regards to the separation to the boundary, at ground floor level the separation would be the same as previously proposed. Where the dismissed scheme had a first floor aligning with the ground floor flank elevation, the current proposal incorporates a cat slide roof which starts at a point approx. 2.4m from the boundary and which terminates to align with the ground floor flank elevation.

In other respects, two large ground floor windows are proposed in the flank elevation which would face towards the boundary with No. 83. These are shown to be fixed shut and obscure glazed. Two further flank facing windows are proposed to be provided in the first floor flank elevation facing towards and 3.3m from the boundary with the rear garden at No. 83.

The main issues in the determination of this application are the impact of the proposal on the daylight to the ground floor flank facing kitchen window at No. 83 and the extent to which the proposal would result in accommodation of a satisfactory standard of amenity for prospective occupants.

Impact on the residential amenities of the area

It is noted that in respect of the previous schemes which were bulkier than that currently proposed, appeal Inspectors considered that the visual impact/outlook from the neighbouring property would not be significantly harmed. The primary cause for concern related to the impact on the daylight to the neighbouring ground floor. The current application is not accompanied by an overshadowing analysis and when asked whether it was intended to submit one the applicant's agent confirmed that it was not intended to do so on the basis "The current application is a much scaled down version from the previous application and the overshadowing done then showed that the neighboring dwellings would not have been affected by the proposal. As such, one is not necessary for this application." It is noted that the conclusions of the Overshadowing Analysis supplied with the previous application were not supported by the planning Inspector in dismissing the appeal. The existing levels of daylight to No. 83 have been described as poor, and the Inspector took the broad view that the previous proposal would have made a bad situation worse.

The current scheme has been designed to incorporate a cat slide roof relating to a narrower first floor element above the existing single storey extension. This element effectively 'shaves off' the corner of the first floor development where it is in closest proximity to the boundary with No. 83. As a consequence, while the first floor extension would still be appreciable from the flank facing window at No. 83, the visual impact and the impact on daylight is reduced as a consequence of the angle of the cat slide roof. Rather than facing a full depth sheer flank wall with second floor element above as was previously proposed, the flank facing window at No. 83 would look onto mostly existing development in addition to a tiled cat slide roof. The angle of the roof would allow for increased permeation of daylight between the buildings and would limit the visual impact of the proposal. On balance it is considered that the current proposal addresses adequately the grounds for refusal of the previous scheme.

The proposed two storey element adjacent to the boundary with No. 79 would relate visually and physically to the development at that property. The rear garden of the host

property is currently significantly overgrown with large self-seeded trees which currently almost entirely obscure the rear view from the first floor window at No. 79 which is also set away from the boundary. On balance it is considered that the proposal, taking into account the existing situation at the host property and the reasonably modest depth of the rear projection proposed adjacent to the boundary with No. 79, would not have a significantly adverse impact on the amenities of that property. Adequate separation is considered to be retained to the boundary with No. 83 so as to limit the visual impact and the impact of the proposal on daylighting to that property. It is noted that the scheme incorporates the provision of a first floor flank facing bathroom window which would be sited approx. 3.3m from the boundary with No. 83 with its sill at a height of 3.8m above ground level. This window could reasonably be obscured glazed as is proposed to the flank facing living/dining room windows closest to the boundary with No. 83.

It is not therefore considered that the proposal would result in unacceptable loss of privacy to the neighbouring property, taking into account also the existing/retained terrace at second floor level and the rear dormer window at roof level.

Standard of accommodation for prospective occupants

The GIA for the proposed one bedroom maisonette would be approx. 53 sq.m. The minimum GIA for a one bedroom (2 person) dwelling over two storeys is 58 sq.m. The proposal therefore falls short of this standard by approx. 5m². The plans submitted with the application show the layout of furniture within the property indicating that adequate space would be provided for storage furniture to the first floor en-suite bedroom (which would exceed the minimum 11.5sq.m. area for a two person bedspace. It appears that a functional layout of furniture could be achieved for the ground floor living accommodation. The proposed flat would be lit from two elevations and would include external amenity space in the form of a patio leading from the ground floor living room.

It is noted that the scheme refused planning permission under reference 16/01661 and which itself followed a number of previous refusals of planning permission, a split level flat was proposed to be provided over three storeys, including the existing roof terrace, and that that flat had a GIA which also fell short of the technical minimum space standard for a one bedroom split level flat. In dismissing the appeal against the refusal of planning permission the Inspector noted that the Council had not objected to the size of the accommodation proposed and did not disagree with that conclusion.

Conclusions

This is a very finely balanced case. However, in view of the reduction in the scale and bulk of the development and the design of the extension at first floor level to incorporate a tiled roof angled away from the boundary it is considered that the proposal represents an improvement over the previous scheme in terms of the impact of the proposal on the residential amenities of neighbouring occupants. On balance, it is considered that the proposal adequately addresses the concerns expressed by the appeal Inspector under reference 16/01661.

It is considered that while the calculation of the Gross Internal Area would fall short of the nationally described space standard, in view of the proposal forming in part a conversion and taking into account the need to mitigate the impact of the built development on the neighbouring property, the proposal would on balance provide accommodation of a satisfactory standard of amenity for prospective occupants.

RECOMMENDATION: PERMISSION

Subject to the following conditions:

- 1 The development to which this permission relates must be begun not later than the expiration of 3 years, beginning with the date of this decision notice.**

Reason: Section 91, Town and Country Planning Act 1990.

- 2 Unless otherwise agreed in writing by the Local Planning Authority the materials to be used for the external surfaces of the development hereby permitted shall as far as is practicable match those of the existing building.**

Reason: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the appearance of the building and the visual amenities of the area.

- 3 Prior to the first occupation of the flat hereby granted planning permission the first floor bathroom window in the south eastern flank elevation of the extension shall be obscure glazed and shall be permanently retained as such thereafter.**

Reason: In the interest of the residential amenities of the occupiers of the neighbouring property and to comply with Policy BE1 of the Unitary Development Plan.

- 4 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans approved under this planning permission unless previously agreed in writing by the Local Planning Authority.**

Reason: In the interest of the visual and residential amenities of the area and the proposed flat and to accord with Policies BE1 and H8 of the Unitary Development Plan.

You are further informed that :

- 1 You should consult the Land Charges and Street Naming/Numbering Section at the Civic Centre on 020 8313 4742 or e-mail: address.management@bromley.gov.uk regarding Street Naming and Numbering. Fees and application forms are available on the Council's website at www.bromley.gov.uk**