

Appeal Decision

Site visit made on 3 May 2017

by Michael Moffoot DipTP MRTPI DipMgt MCMI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 May 2017

Appeal Ref: APP/L5240/W/17/3169219
6A Temple Road, Croydon, London CR0 1HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Dilip Dusara against the decision of the Council of the London Borough of Croydon.
 - The application Ref: 16/04567/FUL, dated 22 August 2016, was refused by notice dated 31 October 2016.
 - The development proposed is '*retrospective planning application for use of existing outbuilding as ancillary annexe accommodation for applicant's son (personal permission for Amit Dusara)*'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - (i) the effect of the proposed development on the character and appearance of the area; and
 - (ii) the effect on the living conditions of the occupiers of Nos 4, 6 and 8 Temple Road, with particular reference to privacy and noise and disturbance.

Reasons

Character and appearance

3. No 6 Temple Road is a 2½-storey terraced dwelling that is sub-divided into three flats. The subject building is occupied by the appellant's son. It is located in the rear garden of the property and comprises a single-storey structure of rendered blockwork construction under a felted flat-roof. Internal accommodation includes a lounge, kitchen/dining area, bedroom and bathroom. Windows and doors in the building are confined to the front (south) elevation and open on to a shared patio area. There is another single-storey building within the garden that appears to be used for domestic storage.
 4. Surrounding residential development is characterised by large dwellings set on long, narrow plots. The semi-detached and terraced dwellings are arranged in a quadrangle with rear gardens combining to form a large, predominantly open and undeveloped space which provides visual relief from built development.
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5. Planning permission was granted for a 'single-storey detached building' on the site in 2009. It is this building that is the subject of the appeal proposal. In order to prevent overdevelopment of the site and safeguard the area's character, the permission includes a condition which requires the accommodation to be used only in conjunction with the accommodation in the existing building and not as a separate dwelling
6. This is a sizeable building within a relatively modest garden. Although its erection as an outbuilding has been sanctioned by the Council, its residential use and associated domestic activities is out of keeping with the prevailing pattern and character of surrounding rear gardens, where outbuildings appear to be ancillary domestic structures. I saw no other comparable residential developments in the rear gardens of properties in the immediate vicinity and none have been drawn to my attention. The use of the building for residential purposes is therefore at odds with the well-defined character of the locality comprising frontage housing with amenity space and gardens to the rear.
7. In reaching these findings, I acknowledge that the building is not readily seen from public viewpoints in the locality. However, it is visible from gardens and rooms of neighbouring buildings from where observers are likely to perceive that the use of the building conflicts with the character of the area.
8. As such, the proposal is harmful to the character and appearance of the area. It therefore conflicts with relevant development plan policies which, amongst other things, require development proposals to reinforce and respect the existing development pattern and only permit residential development on back garden/backland sites where it respects the character and amenity of adjoining residential areas. These policies include SP4.1 and SP4.2 of the *Croydon Local Plan: Strategic Policies* (CLP), saved policies UD2, UD3, H2 and H5 of the *Croydon Replacement Unitary Development Plan* (CRUDP) and policies 3.5 and 7.4 of *The London Plan* (LP).

Living conditions

9. The *National Planning Policy Framework* states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
10. The front elevation of the appeal building includes a lounge window, a pair of bedroom windows and two doors. These openings face large patio doors in the rear of the ground floor flat in the main building and a first floor bedroom window to the flat above. The close proximity of the two buildings means that there is overlooking between these openings which severely compromises the privacy of the occupiers.
11. In this respect it is argued that as the building is occupied by persons known and/or related to the occupier of the host dwelling and the garden area is shared, concerns regarding privacy are unfounded. However, the safeguarding of residents' privacy is a legitimate and material planning consideration irrespective of the tenure of a property or nature of its occupation, and I therefore attach little weight to this argument.
12. There is also oblique overlooking between ground and first floor windows in the neighbouring dwelling (No 4) and those in the appeal building, although it is less pronounced as there is a boundary wall which provides some screening. Some

overlooking also occurs between the windows in the appeal building and first floor windows in the rear of No 8, and adds weight to my concerns.

13. For these reasons, the proposal unacceptably harms the living conditions of the occupiers of Nos 4, 6 and 8 Temple Road. It therefore conflicts with those parts of policies SP4.2 of the CLP, UD8 of the CRUDP and 7.6 of the LP which seek to protect the privacy and amenity of occupiers and enhance social wellbeing.

Other Matters

14. The appellant suggests restricting the use of the building to purposes ancillary to the residential use of the main dwelling and to occupation by his son, Mr Amit Dusara. The *Planning Practice Guidance*¹ states that a condition used to grant planning permission solely on grounds of an individual's personal circumstances will scarcely ever be justified in the case of permission for the erection of a permanent building, but might, for example, result from enforcement action which would otherwise cause individual hardship. In this case, the appellant's personal circumstances have not been set out in any detail, and the limited information before me does not justify residential occupation of the building.
15. Whilst other concerns have been raised in relation to internal space standards, increased on-street parking and fire brigade access, there is no specific evidence before me to substantiate these matters and they have not been decisive in my findings.

Conclusion

16. For the reasons set out above, I conclude that the proposal is unacceptable and the appeal should be dismissed.

Michael Moffoot

Inspector

¹ Paragraph: 015 Reference ID: 21a-015-20140306