



Appeal Decision

Site visit made on 27 August 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 September 2019

Appeal Ref: APP/F5540/W/19/3229416

100 Crispin Road, Feltham, Middlesex TW13 6QR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Christine Vincent against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 01388/100/P7, dated 10 December 2018, was refused by notice dated 5 April 2019.
 - The application sought planning permission for change of use of the existing house with attached annexe into one one-bedroom dwelling and one three-bedroom dwelling with associated internal and external reorganisations without complying with a condition attached to planning permission Ref 01388/100/P6, dated 15 January 2018.
 - The condition in dispute is No 9 which states that: *Prior to first occupation of the site as two independent self-contained single family dwellinghouses the outbuilding/garage, shown on the plans hereby approved, shall have been demolished and the ground made good.*
 - The reasons given for the condition is: *In the interests of the character and appearance of the area and the living conditions of future occupiers and to accord with the aims and objectives of Local Plan Policies SC5, SC7, CC1 and CC2 together with the intent of the SPD.*
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of the existing house with attached annexe into one one-bedroom dwelling and one three-bedroom dwelling with associated internal and external reorganisations at 100 Crispin Road, Feltham, Middlesex TW13 6QR in accordance with application Ref 01388/100/P7 without compliance with Condition No 9 previously imposed on planning permission Ref 01388/100/P6, dated 15 January 2018, but subject to the conditions set out at the end of this decision.

Procedural Matter

2. It was apparent from inspection that boundary treatment had already been erected at the site to subdivide the private rear garden in to 2 separate areas. However, it appeared from internal inspection that the use of the site as 2 independent self-contained dwellings had yet to commence. Indeed, an internal doorway shown to be blocked up on the proposed plans before me was still in place. I shall determine the appeal on this basis.

Main Issues

3. The main issues are:

- Whether or not the disputed condition is reasonable or necessary in the interests of protecting the character and appearance of the area; and
- Whether or not the disputed condition is reasonable or necessary in the interests of protecting the living conditions of future occupiers of Dwelling 1, with particular regard to the availability of private garden space.

Reasons

Character and appearance

4. The appeal site's surroundings are predominantly residential in character. A variety of different housing types are in existence and properties in the area, which tend to be relatively closely positioned to each other, are set on a variety of differing orientations and are served by a range of differently laid out private garden spaces – some of which are limited in size. From inspection, I observed the presence of several single-storey outbuildings in proximity to the site and contained within nearby private garden areas. I thus observed a compact and mixed residential character and appearance to be in existence.
5. The outbuilding contained within the appeal site itself (the outbuilding), whilst fairly large in terms of its footprint coverage, is single storey and flat roofed in design such that it does not appear as an unduly prominent or noticeable feature when viewed from public vantage points.
6. I accept that the outbuilding was once positioned within a spacious single plot. Indeed, now that the rear garden area has been subdivided into 2 more tightly defined areas, the outbuilding, I would suggest, appears less subordinate in form. However, given the presence of other outbuildings in the vicinity of the site and the generally compact makeup of the site's residential surroundings, the outbuilding's continued presence at the site (in a part-reduced form, given that an element of it is still intended to be demolished) would not lead to it appearing as a discordant or out-of-character feature.
7. For the above reasons I find that the disputed condition is not reasonable or necessary in the interests of protecting the character and appearance of the area. As such there would be compliance with Policies CC1, CC2 and SC7 of the Local Plan (2015) in so far as these policies expect development proposals to have regard to the quality, character, materials and scale of the principal building, be subordinate to the existing building, and not over develop the site in terms of mass and density, and to respect the surrounding established context including the quality and size of gardens.

Living conditions

8. Policy SC5 of the Local Plan sets out that useable private external space, that affords privacy and security, should be provided in accordance with benchmark external space standards. These standards translate to the provision of usable amenity space at no less than 75 sq m with respect to houses with 5 or more habitable rooms, which applies to Dwelling 1 (as depicted on the proposed site plan). From the evidence before me it is apparent that, notwithstanding the intended retention (in part) of the outbuilding to the rear of the site, the total

area of private garden to be provided to serve Dwelling 1 would meet the benchmark minimum standard set out under Policy SC5.

9. The Council has raised concerns about the layout of the garden, which incorporates land situated to the side of the main building and which has been described by the Council as primarily serving as a thoroughfare between the front and back of the property and as an area in which to store bins. However, it was apparent from inspection that the area in question is wide enough to provide a broader amenity function alongside access and bin storage functions. This is even were shadows to be cast across this side area so as to restrict future planting opportunities.
10. I accept that it is the quality as well as the quantity of amenity space that is important when assessing the suitability of development proposals. Indeed, the full requirements of Policy SC5 make this clear. I find that the main part of the rear garden area that would serve Dwelling 1 would provide a private, secure and readily useable space of a good size. Further useable external areas would be provided to the side and front of the property. I am thus content that an appropriate standard of living would be provided for future occupants.
11. For the above reasons I find that the disputed condition is not reasonable or necessary in the interests of protecting the living conditions of future occupiers of Dwelling 1, with particular regard to the availability of private garden space. As such there would be compliance with Policy SC5 of the Local Plan in so far as it requires developments to be of the highest quality internally and externally and to meet the demands of everyday life for the intended occupants, and seeks the provision of private external space that is useable and affords privacy and security with regard to the benchmark external space standards.

Other Matter

12. I note that security concerns have been raised by a third party in the event that the outbuilding be fully removed from the site. However, in light of my positive findings with respect to the main issues of this appeal, it is not necessary for me to consider this matter further here.

Conclusion and Conditions

13. For the reasons set out above, I conclude that the appeal should be allowed. I will grant a new planning permission without the disputed condition but retaining those non-disputed conditions from the original permission¹ that appear still to be relevant. The Council has provided a list of suggested conditions that is largely reflective of the conditions set out on the original permission, which the appellant has had the opportunity to comment upon.
14. As set out in the National Planning Practice Guidance, an application made under Section 73 cannot be used to vary the time limit for implementation and this condition must remain unchanged from the original permission. The time-limit condition shall therefore reference the relevant date imposed by the original permission.

¹ 01388/100/P6

15. I shall impose a newly worded condition specifying the approved plans in the interests of certainty. This shall not cite the proposed alterations plan referred to on the original permission, this is because the previously submitted proposed details inaccurately indicate the outbuilding's full demolition (as originally intended). I am content that the site plan before me (Ref: 102_A) has been considered by the Council and that it is largely reflective of the originally submitted proposed alterations, such that no party with an interest in this appeal could be prejudiced by the site plan being listed in the approved plans condition.
16. In the interests of safeguarding the living conditions of future occupiers and ensuring the provision of suitably high-quality private garden spaces, a condition requiring that the intended soft landscaping works are carried out prior to the first occupation of the development is both reasonable and necessary.
17. As set out in the National Planning Policy Framework (February 2019), conditions restricting the future use of permitted development rights should only be used where there is clear justification to do so. In the interests of ensuring that the character and appearance of the area is safeguarded, and that appropriately sized external amenity spaces are maintained in the interests of protecting the living conditions of future occupiers, a condition withdrawing rights with respect to the future construction of any extensions or additional outbuildings at the site is both reasonable and necessary.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun not later than 15 January 2021.
- 2) The development hereby permitted shall be carried out in all respects in accordance with the following approved plans, except as may be required by other conditions in this schedule: Plans as existing (floor plans); Site Plan 102_A.
- 3) The use of the site as two independent self-contained single family dwellinghouses shall not be begun until details of the arrangements for cycle storage have been submitted to and approved by the Local Planning Authority. The arrangements for storing cycles shall not be carried out otherwise than in accordance with any approval given and shall be completed before any part of the accommodation hereby permitted is occupied and thereafter retained as such.

- 4) The use of the site as two independent self-contained single family dwellinghouses shall not be begun until details of the arrangements for storing of waste and recycled materials have been submitted to and approved by the Local Planning Authority. The arrangements for storing waste and recycled materials shall not be carried out otherwise than in accordance with any approval given and shall be completed before any part of the accommodation hereby permitted is occupied and thereafter retained as such.
- 5) The use of the site as two independent self-contained single family dwellinghouses shall not be begun until detailed drawings showing 1.2 metre wide pedestrian paths to the front door of each house have been submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented before the use hereby permitted commences and shall be permanently retained thereafter.
- 6) The use of the site as two independent self-contained single family dwellinghouses shall not be begun until detailed drawings showing the provision of private, usable amenity space for each of the dwellings have been submitted and approved in writing by the Local Planning Authority. The details so approved shall be implemented before the development is first occupied and shall be permanently retained thereafter.
- 7) The use of the site as two independent self-contained single family dwellinghouses shall not be begun until detailed drawings showing the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the units are occupied. Development shall be carried out in accordance with the approved details.
- 8) No demolition or construction work shall take place on the site except between the hours of 0800 to 1800 on Mondays to Fridays and 0900 to 1300 on Saturdays and none shall take place on Sundays and Public Holidays without the prior agreement of the Local Planning Authority.
- 9) The use of the site as two independent self-contained single family dwellinghouses shall not be begun until the landscaping of the development has been implemented in accordance with the approved Site Plan 102_A.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 (or any order revoking or re-enacting that order) no enlargement of either of the properties or any additional structures/buildings within their curtilages shall be carried out.