



Appeal Decision

Site visit made on 4 August 2020

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2020

Appeal Ref: APP/L5240/W/20/3249217

1 Kelling Gardens, Croydon CR0 2RP

- 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 Andrew Lazarus (Chinnock Housing) against the decision of the Council of the London Borough of Croydon.
 - The application Ref 19/05834/FUL, dated 10 December 2019, was refused by notice dated 7 February 2020.
 - The development proposed has been described as the "erection of new 1 bedroom studio flat."
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development used above has been taken from the application form that accompanied the original application and was subsequently used by the Council in their decision notice. Whilst the description refers to the development including the erection of a flat, the submitted plans show that the development would consist of a detached single storey building that is not above or below any part of any other building. This has not, however, prevented the assessment of the proposal on the basis of the submitted plans.

Main Issues

3. The main issues are the effect of the development on the character and appearance of the site and the surrounding area and the living conditions of the occupiers of 1 Kelling Gardens with particular regard to outlook.

Reasons

Character and Appearance

4. Kelling Gardens is a residential street that hosts a terrace of dwellings at one side. However, Bensham Lane features a mixture of built form including large buildings containing flats, terraces of houses and, at the opposite side of the road to the appeal site, large buildings in commercial use. As such, the area features a mixed and varied character. The end-of-terrace dwelling at 1 Kelling Gardens features gardens to the side and rear that are enclosed by a wall and gates at the boundary that fronts Bensham Lane. The gardens of the existing dwelling create a gap within the built form of the street and helps to provide a sense of space between the houses of Bensham Lane and Kelling Gardens and the adjacent flats.
5. The development would involve the erection of a single storey, flat roofed building at the side and rear of the existing dwelling at the appeal site. The dwelling would

host one bedroom, be served by a parking space which would be accessed from Bensham Lane and have a garden that would be enclosed by the existing dwelling and the boundary wall that fronts Bensham Lane.

6. The single storey and flat-roofed design of the building would result in it appearing unlike any other dwelling in the surrounding area and, whilst this would enable the building to be subordinate in scale to the existing dwelling, it would cause the building to appear discordant in the context of the surrounding dwellings. The building would include minimal fenestration and show no regard to the other dwellings of the surrounding area in terms of scale, appearance or form. In these respects, the building would not be reflective of local character and would not represent high quality design. Moreover, whilst some dwellings within the locality have outbuildings of comparable height to the proposed dwelling, the positioning of the building within a separate plot and the relationship of the development with the road would cause the building to appear as a dwelling rather than an outbuilding.
7. Whilst the appellant has identified that the building has been positioned to show regard for the alignment of the other built form within the surrounding area, due to the positioning, scale and appearance of the dwelling, any alignment would be of minimal perceptibility and would not be sufficient to enable the dwelling to sit comfortably within its context.
8. The appellant acknowledges that the development would not accord with Policy DM10 of the Croydon Local Plan 2018 (The CLP) which states that, where development is proposed in the grounds of an existing building, no less than half of the existing garden area should be retained for the host property. Combined with the built form being in such close proximity to the boundaries of the site and the minimal integration that would be achieved with the built form of the surrounding area, the extensive coverage of the site would also cause the development to detract from the appearance of the site and the area. Whilst the existing garden use and enclosure of the land does not persuade me that the development would have a substantial effect on the natural environment, neither do I have grounds to conclude that the land is in a derelict, despoiled or deteriorating state that could only be resolved through undertaking the proposed development. As such, these factors do not alter my assessment of the effect of the proposal on the character and appearance of the area.
9. Whilst I have had regard to the suggestion of the appellant that conditions should be imposed to enable an otherwise unacceptable development to proceed, I am not aware of any conditions that would be sufficient to make the development acceptable whilst still falling within the same ambit as the development for which planning permission was sought.
10. For these reasons, the development would have an unacceptable effect on the character and appearance of the site and the surrounding area. The proposal would, therefore, be contrary to Policies SP4 and DM10 of The CLP which, in addition to that which is set out above, require that development is of high quality and respects the pattern, layout, scale, density and appearance of the area in which it is located. The proposal would also be contrary to Policy 7.4 of the London Plan (2016) which requires that development has regard to the pattern and grain of existing spaces and streets in terms of orientation, scale, proportion and mass.

Living Conditions

11. The existing dwelling at the appeal site features 2 windows and a door at the rear elevation and a single obscure glazed ground floor window at the side elevation. The proposed development would involve the reduction of the size of the garden

serving that dwelling, with the built form being in close proximity to the resultant side boundary of the rear garden and extending along a substantial part of that boundary. No details are shown of any form of enclosure being provided at the boundary of the site, but in any event, the building would be likely to have more effect than any form of enclosure due to its height and proximity to the edge of the indicated plot.

12. The proximity of the proposed building to the rear of the existing dwelling and the manner in which it would be adjacent to the majority of the newly created side boundary would cause the building to have an enclosing effect on the outlook from within the existing dwelling and its garden. Although the building would be low in height, this would not mitigate the substantial effect that the proposed building would have in terms of causing a sense of enclosure within the neighbouring dwelling and garden. In this regard, whilst the existing dwelling would retain a reasonable outlook to the rear due to the substantial gap between the application site and the neighbouring flats, this would not compensate for the effect of the proposed building and the sense of enclosure it would cause.
13. The avoidance of overlooking as a result of no windows being provided in the elevation of the proposed dwelling that would face the neighbouring dwelling and its garden would not compensate for the overbearing effect of the development.
14. Therefore, the development would have an unacceptable effect on the living conditions of the occupiers of 1 Kelling Gardens with particular regard to outlook. Consequently, the development would be contrary to Policy DM10 of The CLP which requires that the amenities of the occupiers of adjoining buildings are protected.

Other Matters

15. I have had regard to those parts of The Framework which encourage the efficient use of under-utilised land, the boosting of the supply of housing and the meeting of identified housing needs. However, The Framework also requires development to be of high quality design, sympathetic to local character and create a high standard of amenity for existing users. As such, whilst the proposal would accord with The Framework in some respects, these factors do not give me reason to reach a different conclusion in respect of the main issues and that harm that has been identified in those respects. Moreover, as I have no basis to conclude that the dwelling would be secured as affordable housing, I give no weight to this benefit of the proposal that has been suggested by the appellant.
16. Whilst the appellant has identified that developments have been approved and occurred at other sites within the London Borough of Croydon, two of the examples that have been brought to my attention are outbuildings for which Certificates of Lawfulness were granted and the examples of new dwellings that have been approved appear to be of substantially different design and proposed in settings that are different to the setting of the appeal site. As such, those developments do not lead me to reach a different conclusion in respect of the main issues or the other matters set out above.

Conclusion

17. For the reasons given above, I conclude that the appeal should be dismissed.

Ian Harrison

INSPECTOR