The Planning Inspectorate

Appeal Decision

Site visit made on 18 August 2020

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th September 2020

Appeal Ref: APP/G5180/D/20/3244163
71 Lynwood Grove, Orpington BR6 0BQ

- 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 Mr Kevin Tunstall against the decision of The London Borough of Bromley.
- The application Ref DC/18/05471/RECON, dated 6 October 2019, was refused by notice dated 2 January 2020.
- The application sought planning permission for Single storey rear extension, first floor front extension, replacement front dormer and elevational alterations, without complying with a condition attached to planning permission Ref DC/18/05471/FULL6, dated 13 March 2019.
- The condition in dispute is No 5 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking and re-enacting this Order) no buildings, structures, extensions, alterations, walls or fences of any kind shall be erected or made within the curtilage(s) of the dwelling(s) hereby permitted without the prior approval in writing of the Local Planning Authority.
- The reasons given for the condition is: In the interests of protecting the character of the area and residential amenity of neighbouring properties in accordance with Policies 6, 9 and 37 of the Council's Local Plan (2019).

Decision

1. The appeal is allowed and planning permission is granted for Single Storey rear extension, first floor extension, replacement front dormer and elevational alterations at 71 Lynwood Grove, Orpington BR6 0BQ in accordance with the terms of application DC/18/05471/FULL6 dated 13 March 2020, subject to the following conditions:

   1) The development hereby permitted shall be carried out in accordance with the approved plans under this planning application unless previously agreed in writing by the Local Planning Authority.

   2) The development shall be carried out in accordance with the materials approved under ref. 18/05471/CONDIT.

   3) The development shall be carried out in accordance with the soft landscaping details approved under ref. 18/05471/CONDIT. The approved scheme shall be implemented no later than the first planting season following the completion of building works. All planted materials shall be

maintained for five years and any trees or plants removed, dying, being damaged or becoming diseased within that period shall be replaced in the next planting season with others of similar size and species to those originally required to be planted unless the council gives written consent to any variation.

4) The development shall be carried out in accordance with the slab level details approved under ref. 18/05471/CONDIT

5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking and re-enacting this Order) no change of use of any kind permitted by Class L (Houses of Multiple Occupation) of Part 3 of Schedule 2 of the 2015 Order (as amended), shall be undertaken within the curtilage of the dwelling without the prior approval in writing of the Local Planning Authority.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. Condition 5 of approval DC/18/05471/FULL6, 'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking and re-enacting this Order) no buildings, structures, extensions, alterations, walls or fences of any kind shall be erected or made within the curtilage(s) of the dwelling(s) hereby permitted without the prior approval in writing of the Local Planning Authority' was imposed to the original permission in order to protect the character of the area as the site is located in the Knoll Area of Special Residential Character (ASRC).

4. The appeal is located on a narrow road that consists broadly of detached dwellings, many of differing designs although a unifying element is that most dwellings are rendered and painted white in colour. There are noticeable arts and crafts influences to many of the dwellings. The appeal site is detached with a long rear garden surrounded on all sides by other residential gardens.

5. Paragraph 55 of the National Planning Policy Framework, (the Framework) advises that conditions should only be imposed where they are necessary, relevant to planning and to the development, enforceable, precise and reasonable in all other respects. The Planning Practice Guidance refers to this as the 'six tests'. It also emphasises that clear and precise reasons must be given for the imposition of every condition.

6. I am aware that the ASRC characterises the area by '*open plan or landscaped front gardens'* and that there are gaps between houses and '*glimpses into rear gardens'*. The rear dwelling is nearly the full width of the plot and there is little opportunity to view it from the street scene.

7. Furthermore, there little opportunity to view the rear garden from public vantages beyond the site as it is bound by residential gardens to all sides and is not seen from other streets that surrounds the site. I can find no reason to suggest that, by the appellant exercising their permitted development rights int

this way, would result in development within the rear garden area where harm would arise to the character of the ASRC. On this basis I find Condition 5 of application reference DC/18/0547/FULL6 not to be necessary or reasonable.

8. I have determined the appeal based on the evidence before me and find the disputed condition fails more than one of the tests set out in paragraph 55 of the Framework and should be deleted.

Conditions and Conclusion

9. As I am granting a new planning permission under section 73, conditions can be amended, deleted or further conditions imposed, and I have had regard to all conditions imposed to the original permission as well as the advice within the Guidance. Works have commenced on site and therefore this negates the requirement for a condition seeking works to commence within three years of grant of permission. Materials, slab details and the landscaping details have previously been submitted and this is covered in conditions 2, 3 and 4 and Condition 5 is transposed from the original permission.

10. For the reasons I have given, the appeal is allowed.

Alison Scott

INSPECTOR