
Appeal Decision

Site visit made on 5 January 2021

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 February 2021

Appeal Ref: APP/L5240/X/20/3250223

28 Courtney Road, Croydon CR0 4LS

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Stephen Roberts against the decision of the Council of the London Borough of Croydon.
 - The application Ref 20/00292/LP, dated 21 January 2020, was refused by notice dated 18 March 2020.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is proposed alterations to existing three flat conversion.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission was granted¹ to convert the building to 2 no. two bedroom flats and 1 no. studio flat. The permission was subject to a condition which required the development to be carried out entirely in accordance with the listed documents and approved drawings². The appellant states that the building was not converted in accordance with the approved drawings, and the second floor was not converted into a studio.
3. A non-material amendment³ was subsequently approved for various alterations, which are listed as including alterations to fenestration, relocation of first floor bathroom, alteration to first floor lounge/kitchen/dining room, change to the wall to the second floor studio, and the second floor flat should be altered to become a studio. These changes are illustrated on drawing no. P/02.
4. The application which is the subject of this appeal seeks confirmation that further proposed alterations do not require planning permission. The alterations⁴ sought include:

¹ Reference 17/02727/FUL

² Drawing no. SR/CR/PL02 Rev B and SR/CR/PL03 Rev B

³ Reference 19/05010/NMA

⁴ Shown on drawing P/03

- Removing an internal hall in the ground floor flat making the living room larger, with access to bedroom 1 directly from the living room;
- Enlarging the size of the kitchen to the ground floor flat by reducing the size of the hall so that access to bedroom 2 would be directly from the kitchen;
- Creating a separate bedroom in the second floor studio flat through subdividing the kitchen/living area, thereby making the studio flat a one bedroom flat.

Reasons

5. In an application for an LDC, the onus is on the applicant to provide all the relevant information and evidence to support his case. On appeal, the Inspector's role is to decide whether, on the evidence, the Council's refusal to issue an LDC was well-founded or not. The case must be considered solely on the relevant legal tests, and its planning merits are of no relevance. The burden of proof lies with the appellant. The appellant must show, on the balance of probabilities, that the development proposed would, at the date of application, be lawful.
6. This application seeks confirmation that the conversion of the second floor studio to a one bedroom flat and other internal alterations to the ground floor and first floor flats, do not require planning permission. The appellant states that the existing work has been carried out in accordance with the approved plans. The proposed works are internal and do not involve external alterations to the elevations.
7. The decision notice for the original 2017 planning permission includes a condition requiring that the development is carried out entirely in accordance with the approved drawings listed on the decision notice. Non-material amendments allow minor changes to be made but do not result in a new planning permission, therefore the original permission with its conditions still stands and the two documents should be read together. The wording of the condition is clear that the permission requires that the works be carried out entirely in accordance with the approved drawings.
8. However, it has not been demonstrated that the property has been converted fully in accordance with the permission and the condition. This is not a matter before me to determine, and in any event, I do not have sufficient information to come to a view as to whether the works were carried out in accordance with the approved drawings and whether the condition has therefore been discharged.
9. Section 55(2)(a) of the 1990 Act states that the carrying out for the maintenance, improvement or other alteration of any building of works which affect only the interior of the building or do not materially affect the external appearance of the building, shall not be taken to involve development of the land. However, in this case it is not clear to me that the planning permission has been implemented entirely in accordance with the approved drawings, so I cannot conclude that the further internal alterations as proposed are lawful.
10. Consequently, the Council's refusal to grant a certificate of lawful use or development in respect of the proposed alterations to existing three flat conversion was well-founded and the appeal should fail. I will exercise

accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

N Thomas

INSPECTOR