

---

## Appeal Decision

Site visit made on 24 November 2020

**by F Rafiq BSc (Hons), MCD, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 February 2021.**

---

**Appeal Ref: APP/L5240/W/20/3251813**

**267 Violet Lane, Croydon, CR0 4HN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Jon Dean (Forbes Dean Associates) against of the Council of the London Borough of Croydon.
  - The application Ref 19/04470/FUL, is dated 19 September 2019.
  - The development proposed is to create studio flat to accommodate a disabled person.
- 

### Decision

1. The appeal is dismissed and planning permission to create a studio flat to accommodate a disabled person is refused.

### Procedural Matters

2. The appeal was made against the failure of the Council to give notice of its decision on the application within the appropriate period. Although the Council have stated that they did issue a decision on 13 May 2020, this was following the submission of the appeal. The Council have stated the reasons for refusal that the application would have been refused on, which I intend to consider this appeal on the basis of.
3. The description of the development references the proposal as accommodation for a disabled person. The Council have stated that this is not a matter which could be enforced and I will therefore proceed to consider the appeal based on a flat which could be occupied by a variety of users.

### Main Issues

4. The main issues are:
  - whether the proposal would provide satisfactory accommodation for its future occupants with regard to daylight, sunlight and amenity space provision; and,
  - the effect of the proposal on the living conditions of neighbouring occupiers having regard to privacy.

### Reasons

#### *Living Conditions – Future Occupiers*

5. The appeal property comprises of a semi-detached building, where the residential accommodation is set at an elevated level from the road. To the

front, a pair of garages are situated broadly at ground level but to the rear, the garden is elevated, such that the basement is largely below ground level. The appeal proposal seeks to convert the existing basement and one of the garages to provide a flat.

6. The proposed flat would be served by a door and side window to the front, which would replace the existing garage door. The Council have raised concerns on the distance that light would need to travel from the front through the proposed flat. There is some difference between the Council and the Appellant on this distance from the front to the rear. However, even taking the lower distance of 7.7m, it is evident that light would need to travel a significant distance.
7. The appeal application does however also propose a lightwell to the rear. The Council have confirmed its depth would be acceptable if it was open to the sky, but state that the limited openings would result in poor natural light entering the room below. The Council have further referenced the proposed lightwell as having two small rooflights and a covered roof. However, the submitted plans<sup>1</sup> identify two 'opening roof lights' within a larger 'obscure double glazed' area. The area of this rear glazed roof area is given as 6.3sqm. I therefore consider that a combination of this rear lightwell, as well as the front glazed door and side window, would provide adequate light internally within the proposed flat.
8. The proposed flat would be provided with amenity space to the rear that is shown to extend 4.5m from the rear of the lightwell. The amenity space would be a short distance to the rear of the ground floor accommodation and it would therefore be overlooked at close quarters by two windows that are clear glazed. Although reference has been made to various alternatives, I have not been provided with details of these, such as the suggested physical screen. The appeal proposal is also for a private amenity space and not a communal garden, and I am required to determine the appeal on the details before me.
9. I therefore conclude that despite the proposed development making satisfactory provision for future occupants with regard to adequate daylight and sunlight internally, it would fail to provide satisfactory amenity space provision for future occupants. As such, it would conflict with Policy DM10 of the Croydon Local Plan (Local Plan) insofar as it seeks private amenity space which is of high quality design and does not result in direct overlooking at close range. It would also be contrary to the Supplementary Planning Guidance – Housing (SPG) and Paragraph 127 of the National Planning Policy Framework (Framework), which seek, amongst other matters, a high standard of amenity for existing and future users.

#### *Living Conditions – Existing Occupiers*

10. The proposed amenity space would be taken from part of the existing garden to the rear of No. 267 Violet Lane and would result in the proposed amenity space directly adjoining this neighbouring garden. Given this close relationship, which would give rise to views from the amenity space of the proposed flat, and in the absence of any details of screening, I consider, based on the submitted scheme, that the development would have an unacceptable detrimental effect on the living conditions of neighbouring occupiers.

---

<sup>1</sup> Drawing Numbers: 1392-1A and 1392-3

11. It would therefore be contrary to Policy DM10 of the Local Plan, which seeks, amongst other matters, development that does not result in direct overlooking of private outdoor space. It would also be contrary to the SPG and Paragraph 127 of the Framework, which seek, amongst other matters, a high standard of amenity for existing and future users.

**Other Matter**

12. The proposal would provide a flat that would meet the need for accommodation in Croydon. Whilst this matter weighs in favour of the development, it would not outweigh the harm that I have identified in respect of the main issues.

**Conclusion**

13. For the reasons given above and having considered all other matters raised, including no comments being made on the appeal application and the Council not entering into discussions on a previous application and subsequently, this appeal application then being made in response to that previous refusal, I conclude that the appeal should be dismissed.

*F Rafiq*

INSPECTOR