



Appeal Decision

Site visit made on 21 January 2021

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 08 March 2021.

Appeal Ref: APP/L5240/W/20/3257741

2 Elmpark Gardens, South Croydon CR2 8RU

- 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 Vasile Chelba against the decision of the Council of the London Borough of Croydon.
 - The application Ref: 20/00849/FUL dated 16 July 2019, was refused by notice dated 19 May 2020.
 - The development is conversion of existing outbuilding in rear garden to self contained 1 bedroom bungalow.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of existing outbuilding in rear garden to self contained 1 bedroom bungalow at 2 Elmpark Gardens, South Croydon CR2 8RU in accordance with the terms of the application, Ref: 20/00849/FUL dated 16 July 2019, and the plans numbered ELM/X/001, ELM/X/200 and ELM/X/200A, subject to the following conditions:
 - 1) Notwithstanding the position of the boundary fencing shown on Plans ELM/X/200 and ELM/X/200A, within two months of the date of this decision, a dimensioned plan shall be submitted to the Local Planning Authority showing an amended garden area to be provided for No 2 Elmpark Gardens together with details of the proposed boundary fencing and a timescale for the boundary fencing to be erected. Following the written approval of the Local Planning Authority, the fence shall be erected in accordance with the approved details and timescale and thereafter retained and maintained.
 - 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no further extensions or alterations or outbuildings to the new dwelling hereby permitted shall be erected under Schedule 2, Part 1, Classes A, B, C, and E without the prior permission of the Local Planning Authority.

Application for Costs

2. An application for costs was made by Mr Vasile Chelba against the London Borough of Croydon. This application is the subject of a separate decision.

Preliminary Matters

3. The application forms indicated that the development had been undertaken before the date of the application. At the time of my site visit, the new dwelling in the former outbuilding appeared to be occupied, using an access off Sundale Avenue. I shall therefore treat the application as one made under Section 73A of the Town and Country Planning Act 1990 for retrospective planning permission for development as originally carried out, namely for conversion of existing outbuilding in rear garden to self-contained one bedroom bungalow.
4. At the time of my site visit, close boarded fencing had been erected between No. 2 and No 2a as well as to divide No 2 and No 2a from the outbuilding but the fence between No 2 and the outbuilding was not on the same alignment as shown on the submitted plans. I have based my assessment on the submitted plans as I am required to do.
5. The Council's second reason for refusal referred to the lack of consideration in the submission to the recently approved dwelling on the same plot as No 2 under its reference 19/02272/FUL and that as a result the officers were unable to fully assess the impact of the proposal on this approved new dwelling. At the appeal stage the Appellant submitted a revised block plan (Ref: ELM/X/200 Rev A) to show in plan form the siting of the additional development approved under the above reference. As this plan has been submitted for information purposes and does not amend the proposals, I am prepared to take this additional plan into account. This appears to me to show the development at No 2 and 2a for the purposes of this appeal. At the time of my site visit, the new development adjoining No 2 had been completed and was occupied. As a result, I was able to assess the impact of the new dwelling in the former outbuilding on the new dwelling at No 2a.
6. The Council's first reason for refusal refers to a flatted development; the Council has confirmed this to be an error. The proposal clearly relates to a single storey outbuilding and there appears to be no confusion in the Officer's report over the nature of the development proposed. I do not consider that any party is prejudiced from this error on the decision notice.

Main Issue

7. The main issue in this appeal is the effect of the proposal on the living conditions of the occupiers of No 2 and No 2a Elmpark Gardens with particular regard to, first, the provision of private amenity space and secondly, outlook and visual intrusion.

Reasons

a) Private amenity space

8. The appeal site comprises No 2 Elmpark Gardens and the recently completed attached No 2a now forming the end of the terrace of residential properties on the junction of Elmpark Gardens with Sundale Avenue, and within a predominantly residential area. There is a detached outbuilding in the rear garden area, furthest from the dwelling. The proposal seeks to put up a 1.8m close boarded fence part way along the plot to create a separate plot for the new dwelling in the former outbuilding property, with separate access off Sundale Avenue.

9. The fence line would be staggered and would provide a rear garden area of 67 sq m for No 2. There is no concern raised with the amount of space being offered for the proposed new dwelling in the former outbuilding and I have no reason to take a different view.
10. The amount of amenity space provided for the new house at No 2a would appear, on the basis of the information provided by both the Council and the Appellant to be the same as that provided under the scheme permitted for No 2a, under the Council's reference: 19/02272/FUL. This proposal would not therefore affect the provision of amenity space for this dwelling.
11. Policy DM.10.4 of the adopted Croydon Local Plan 2018 (Local Plan) sets out specific requirements for new developments and the provision of private amenity space, and under criterion e that *in the case of development in the grounds of an existing building which is retained, a minimum length of 10m and no less than half or 200m² (whichever is the smaller) of the existing garden is retained for the host property after the subdivision of the garden.*
12. At 12m as indicated on the submitted plan, the proposed length of the garden for No 2 would exceed the 10m set out in the policy, but the overall dimensions would fall slightly short of the area requirements. I agree with the Appellant that with the creation of No 2a as a separate dwelling with its own garden area, the garden area for the host property should exclude that element.
13. It is not clear whether the Council would include the outbuilding in its calculations but as Policy DM.10.4 of the Local Plan relates specifically to garden areas, I have excluded it. On this basis and on the figures before me, there would be only be a modest shortfall in the amount of garden space remaining to No 2 to comply with the policy requirements. Moreover, the remaining garden area which would serve No 2 would be regularly shaped and practical for use. Furthermore, the application forms indicate that the land is within one ownership and it should therefore be possible for the Council and the Appellant to agree a fence line that would be practical and would comply with the requirements of Policy DM.10.4 of the Local Plan.
14. I appreciate that the garden size to serve No 2 would be smaller than the general pattern of garden sizes further along the road, but with the permission and completion of No 2a and the creation of its separate plot, the remaining garden area to serve No 2 has already been compromised.
15. I therefore conclude that, subject to the imposition of a condition as discussed above in respect of the fence line and subdivision of the garden area, the development would create a satisfactory living environment for the occupiers of No 2 with particular regard to the provision of amenity space. There would be no conflict with the National Planning Policy Framework (Framework), Policy DM10.4 (e) of the Local Plan and the Council's SPD: Suburban Design Guide (2019) all of which amongst other things require a high quality living environment for existing and future occupiers.

b) Outlook and visual intrusion

16. Given the single storey and flat roofed nature of the new dwelling in the former outbuilding and the distance between this building and the rear of Nos 2 and 2a I am satisfied that there is no material harm to the living conditions of the residents of No 2 and No 2a and indeed for the occupiers of the proposed new

dwelling, in terms of overlooking and loss of privacy and general outlook as a result of the siting and relationship between the buildings. I am therefore satisfied that there is no conflict with Policies 7.1, 7.4 and 7.6 of the London Plan as well as Policies SP4 and DM10 of the Local Plan and the Design Guide as well as the Framework in this regard.

Other Considerations

17. I have noted the concerns of a number of neighbouring residents but given the single storey form of the dwelling, and its siting, I am satisfied that there is no material harm to the living conditions of adjoining neighbours, in terms of outlook and overlooking and loss of privacy. Off street parking is provided for the new dwelling off Sundale Avenue and I do not therefore consider that the provision of one additional residential unit would unacceptably affect parking in the local area. The Council also raised no concerns in these regards.

Conditions

18. The Council has requested that a number of conditions be imposed in the event of planning permission being granted. The majority of these are worded on the basis that this is a proposal for a new development, whereas the building already exists and is in use as a residential dwelling. As indicated at the outset, the fence creating the garden for No 2 has not been erected in accordance with the submitted plans and this requires to be changed to an alignment, in written agreement within the Council, within 2 months of the grant of permission.
19. This condition is imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of the outstanding matter before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.
20. As this is a condition which has not been previously raised, and in the interests of fairness, I have sought the views of both the Appellant and the Council to the proposed condition. The Appellant has confirmed his agreement; no response has been received from the Council.
21. Given the small size of the site and relationship with surrounding buildings, I agree in the particular circumstances of this case that permitted development rights should be withdrawn for further extensions including outbuildings for the new dwelling.

Conclusion

22. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that the appeal should be allowed.

L J Evans

INSPECTOR