



Appeal Decision

Site visit made on 15 March 2021

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2021

Appeal Ref: APP/P5870/D/20/3264459

14 Clarkes Avenue, Worcester Park KT4 8PZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Pathmanadan against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2020/00683, dated 13 May 2020, was refused by notice dated 14 September 2020.
 - The application sought planning permission for erection of two outbuildings at rear without complying with a condition attached to planning permission Ref A2016/75255, dated 4 November 2016.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans: 001, 002, 011, 100, 101 Rev. B, 102 Rev.B.
 - The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.
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Decision

1. The appeal is allowed and planning permission is granted for erection of two outbuildings at rear at 14 Clarkes Avenue, Worcester Park KT4 8PZ in accordance with the application Ref DM2020/0063, dated 13 May 2020, without complying with condition No 2 set out in planning permission Ref A2016/75255, dated 4 November 2016 and subject to the following conditions: -
 - a) The development hereby permitted shall be carried out in accordance with the plans hereby approved: 001, 100 Rev.D, 101 Rev.D and 102 Rev.D.
 - b) All external facing materials, treatments and finishes shall be as specified within the application form. Where this is not possible the type and treatment of the materials to be used shall be agreed in writing by the Local Planning Authority prior to the development being carried out.
 - c) The outbuildings hereby approved shall be used for purposes ancillary and incidental to the enjoyment of the main dwelling house and for no other purposes whatsoever.

Background and Main Issues

2. Planning permission was granted for the erection of two outbuildings at rear under planning Ref A2016/75255. The applicant has indicated that work has

commenced but the development has not been carried out in accordance with the approved plans listed within condition 2. Planning application Ref DM2020/00683 sought to amend the drawings relating to the original planning permission to regularise the breach.

3. The main issues are the effect that varying condition 2 would have on the character and appearance of the area and the living conditions of existing adjoining occupiers.

Reasons

Character and appearance

4. The amendments proposed to the original planning permission would increase the footprint of the rearmost outbuilding by increasing its depth, although its width would be reduced. The amendment would also alter its roof design from a dual pitched roof to a crowned hipped roof.
5. There would be a modest increase in depth of the rearmost outbuilding, however the overall height of the rear outbuilding would remain as previously granted planning permission. A reasonably sized garden would remain at the rear of the dwelling house between the dwelling house and the rearmost outbuilding. Although the design of the outbuilding would change from that previously granted, the proposal would not create a disproportionately sized outbuilding within the rear garden of the property. Given that there would be no change in its height, I do not consider that the rearmost outbuilding would be a dominant form of development. Furthermore, it would not be of such a size that would cause visual harm to the local residential context or character of the area. Nor would it be a building out of keeping with the type of outbuildings typically found within residential areas such as this.
6. The smaller of the outbuildings would be very slightly increased in height to that previously granted and would have a different roof being mono pitched rather than flat. No change is proposed to the footprint of this outbuilding. Given its overall modest size I do not consider this outbuilding would cause visual harm to the character and appearance of the area.
7. For these reasons, I conclude that the proposed development would not cause harm to the character and appearance of the area. As such, the proposed development would not materially conflict with Policy 28 of the Sutton Local Plan that seeks, amongst other matters, development to respect the local context, respond to local character and be of a suitable scale, massing and height to the setting of the site.

Living conditions

8. Although the footprint of the rearmost outbuilding would change, its overall height would remain as previously approved. The sides of the crown roof would be hipped sloping away from neighbouring properties toward its ridge. I do not consider the resulting height of the outbuilding would be excessive or that its changed footprint would result in it being of a size that would be visually dominant in the outlook of the adjoining existing occupiers.
9. The smaller outbuilding would be positioned adjacent to the side boundary of the site and the larger outbuilding would be constructed within close proximity to both side boundaries. I saw that to the rear of the residential properties

along this part of Clarkes Avenue is St Bede's conference centre. There is a gap between that building and the rear boundaries of the residential properties that provides a sense of space. Given the relatively low height and overall modest size of the outbuildings, I do not consider that in combination the outbuildings would create a sense of being enclosed by built development to such an extent that would be harmful to the existing adjoining occupiers living conditions.

10. The rearmost outbuilding would have bi-folding doors within the elevation that faces toward the dwelling house. There would also be rooflights that direct outlook skyward. The outbuilding would be single storey and be some distance from neighbouring properties. I saw that tall closeboard fencing runs along both side garden boundaries of the appeal site. I do not consider that harmful observation into the indoor and outdoor living spaces of the adjoining properties would take place. The distance from neighbouring properties would also prevent significant observation into the bedrooms of neighbouring properties. Being single storey the outbuildings would not create significant overshadowing or reduction in daylight/sunlight of neighbouring properties.
11. Third party concern is expressed to the impact on their living conditions from the development that has already taken place to the bungalow. However, it should be noted that alterations to the dwelling are not before me for consideration as part of the appeal. Neighbour concern highlights the potential for the outbuilding to increase activity within the rear garden and along the side passageway of the property. The outbuildings would be occupied and used ancillary to the residential use of the existing dwelling and the activities would be of a domestic scale and kind and be in keeping with the present use of the site.
12. For these reasons, I conclude that the proposed development would not cause harm to the living conditions of existing adjoining occupiers. As such, the proposed development would not conflict with Policy 29 of the Sutton Local Plan that, amongst other matters, requires development not to have an adverse effect upon the amenities of adjoining occupiers of nearby properties.

Other matters

13. Third party concern is expressed to potential flood risk and security. I have not been provided with any substantive evidence that would demonstrate the proposal would result in flood risk or surface water runoff. Furthermore, there is no clear indication that a significant security risk would arise as a result of the development even if the rearmost outbuilding is accessed via the side passageway of the property.
14. There is also concern relating to the accuracy of the information contained within the application and drawings that support the application. A representation submitted at planning application stage to the Council details these concerns and includes annotated drawings. The Council has commented that the details have been checked and consider them to be accurate. I have no substantive reason that would lead me to come to a different view on this matter.
15. Concerns have also been expressed to the applicant not having lived at the property and the length of time building works have been going on. These are matters separate to those planning considerations that are before me. There is

also concern relating to noise from the existing drainage that serves the property and this increasing with the intensification in use of the existing dwelling house. There is no clear indication that this problem would be exacerbated as a result of the proposed development. It is also commented that a eucalyptus-type tree has been removed from the appeal site however this has already taken place.

Conditions

16. The guidance in the Planning Practice Guidance makes it clear that decision notices for the grant of planning permission under section 73 should repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
17. I have considered the planning conditions previously imposed by the Council in light of paragraph 55 of the National Planning Policy Framework and the advice in the Planning Practice Guidance. As the development has already commenced there is no requirement to impose a timeframe for implementation of the development. To ensure that the outbuildings harmonise with the surrounding area, an external facing materials, treatments and finishes condition is necessary. In the interests of protecting the living conditions of neighbouring occupiers restricting the use of outbuildings for purposes ancillary and incidental to the main dwelling house is necessary.

Conclusion

18. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission subject to the modification of condition 2 to include the amended drawings, together with the imposition of those previously imposed conditions considered appropriate above.

Nicola Davies

INSPECTOR