



Appeal Decision

Site visit made on 29 November 2022

by J Evans BA(Hons) AssocRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th December 2022

Appeal Ref: APP/P5870/D/22/3304273

450 Sutton Common Road, Sutton SM3 9JN

- 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 H Eboigbe against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2021/01397, dated 04 July 2021, was refused by notice dated 18 May 2022.
 - The development proposed is described as the conversion of detached garage for use as annexe accommodation associated with the main house.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of detached garage for use as annexe accommodation associated with the main house at 450 Sutton Common Road, Sutton SM3 9JN in accordance with the terms of the application, Ref DM2021/01397, dated 04 July 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 450 Sutton Common Road, Sutton SM3 9JN.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 21-535- EX01; 21-535-EX02; and 21-535-PR01.
 - 4) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 5) The development must be carried out in accordance with the provisions of the Fire Safety Report: 21-535-FSR V1.

Main Issue

2. The main issue in this case is whether or not the appeal development represents ancillary accommodation or a new separate residential unit.

Reasons

3. The appeal proposal involves adaptations to an existing single storey detached garage that would be used as a residential annexe to the host dwelling, no 450 Sutton Common Road.
4. The appeal building is situated to the rear of the host dwelling. A pedestrian gateway connects into the rear garden of the host dwelling from a shared driveway with the adjacent dwelling 448 Sutton Common Road, which itself has a similarly scaled and sited domestic garage.
5. The appeal proposal would convert the garage into a one bedroom annexe, with new openings and the principle outlook from the accommodation fronting towards the rear garden of the host dwelling. The existing garage doors fronting to the shared driveway will be replaced by walling and a small bathroom window. The gateway to the rear garden of the host dwelling will remain as existing. No other external works are proposed.
6. The Council contend that the appeal proposal would be tantamount to a new dwelling and would not genuinely be ancillary, having regard to the facilities that the annexe will contain as indicated on the submitted plans and the potential to access the appeal proposal via the side gateway, without a need to enter into the host dwelling itself.
7. However, I am mindful that the scheme is proposed as an annexe and that the starting point is to consider the proposal as applied for. In my view, the appeal development would constitute a residential annexe in that it would: re-use an existing outbuilding that appears to have been used for domestic purposes in association with the host dwelling; it would be in the same ownership as the host dwelling; the proposed accommodation would be well related to the host dwelling and would have a strong visual link with it; there would be no new boundaries or subdivision of the plot and the rear garden would be shared; whilst containing habitable facilities, the accommodation would be small-scale; and the appeal development would be subservient to the host dwelling.
8. Whilst it would be possible to enter into the proposed accommodation via the rear gateway without physically entering into the host dwelling, the pedestrian throughfare and the annexe would be located immediately adjoining the rear of the host dwelling which has windows and patio doors directly fronting towards this route. As outlined above, there is a close inter relationship between the host dwelling and the proposed annexe, they will use and will have an outlook onto the same rear garden space. There is a functional and physical relationship between the two.
9. On the above basis, I am satisfied that the accommodation could be used as an annexe and that this could reasonably be enforced through a condition.
10. Ultimately, if the accommodation is not used as proposed, or if there is a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required, and the appeal development would be at risk of enforcement action if such permission is not granted.
11. I find, therefore, that the proposed annexe would be acceptable, that it would not involve the creation of a separate dwelling and that there would, therefore, be no conflict with Policies 7 and 28 of the Sutton Local Plan 2016-2031,

adopted February 2018, or any of the corresponding policies of the National Planning Policy Framework 2021.

Conditions

12. The standard time limit is required together with a condition listing the plans in the interests of certainty. I have also included a condition that requires the external materials to be used, to match those on the existing building. A condition which seeks to restrict the use of the development to a residential annexe is also reasonable, necessary and enforceable, to prevent the proposed development being used or occupied as a separate and independent dwelling. A condition is also necessary in relation to the provision of a fire strategy to ensure the development incorporates and maintains necessary fire safety measures.

Conclusion

13. For the reasons given above, having regard to all matters raised, I conclude that the appeal should be allowed.

J Evans

INSPECTOR