



Appeal Decision

Site visit made on 23 June 2023

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 JULY 2023

Appeal Ref: APP/L5240/W/23/3314659

28 Gloucester Road, Croydon CR0 2DA

- 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 Ali Walji against the decision of London Borough of Croydon.
 - The application Ref 22/03730/HSE, dated 7 September 2022, was refused by notice dated 15 November 2022.
 - The development proposed is an annexe scheme.
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Decision

1. The appeal is allowed and planning permission is granted for an annexe scheme at 28 Gloucester Road, Croydon, CR0 2DA in accordance with the terms of the application, Ref 22/03730/HSE, dated 7 September 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Existing and Proposed Site Plan, Drawing Number 28-000; Proposed Plans, Drawing Number 28-002; Proposed Elevations, Drawing Number 28-003.
 - 3) The use of the building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 28 Gloucester Road.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area including having regard to whether or not the proposed development would be ancillary to the main dwelling.

Reasons

3. The appeal property is a two-storey end of terrace dwelling. It is separated from no. 30 Gloucester Road by a passageway which is within the curtilage of no. 30 and is not shared. The proposed annex would be built at the bottom of the rear garden, beyond which are railway lines.
4. The Council consider that it has not been adequately demonstrated that the proposed outbuilding would be used for ancillary purposes only. The development does not result in the creation of a separate planning unit. The evidence shows that the appeal site comprises the whole of no. 28 Gloucester Road. There is no severance or subdivision proposed.

5. The Courts have held that even if accommodation provides facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling – instead it would be a matter of fact and degree. There is no reason in law why such accommodation should consequently become a separate planning unit from the main dwelling.
6. It is not in dispute that the proposed building has facilities for day-to-day living. Importantly, however, it has the same outdoor amenity space and access to the street as the main body of the dwelling. It is also in close proximity to the main body of the dwelling and is solely accessible by going through the main body of the dwelling to access the rear garden.
7. The creation of a separate dwelling is not before me. If the building is not used as an annex as is 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 building would be at risk of enforcement action if such permission is not granted.
8. The introduction of an independent dwelling to the garden of the host dwelling may not be appropriate for a variety of reasons. Nevertheless, the application form clearly states that the development is for an annex. The appellant does not claim to be seeking permission for an independent dwelling and furthermore the Council validated the application on this basis, including as a householder planning application.
9. It is clear to me that the proposed development is ancillary, in that it is in addition to, but of less significance, than the main part of the dwelling. It is considerably smaller than the main body of the dwelling and no subdivision of the garden or new boundary treatments are proposed. On the matter of the use of the annex, there is limited substantive evidence in terms of the planning harm that the Council consider would be caused, other than they are of the view it has not been demonstrated that the annex would be ancillary.
10. The Council considered that the proposed outbuilding, by reason of its design, scale, massing and siting, would result in development that would be harmful to the character of the host property and the surrounding area.
11. The appeal property has a relatively long rear garden, and it is proposed to site the annex building towards the foot of the garden. The building would be single storey. I observed both on my visit to the site and my train journey to and from the site that a number of surrounding properties have single storey outbuildings in their rear gardens. I therefore find that neither the scale nor the siting of the development would cause harm in this context.
12. In terms of its design, the building would be relatively simple in appearance. Given its scale and location in the rear garden, combined with limited public vantage points, save for neighbours and glimpsed views from passing trains, its design would not cause harm in this context.
13. In terms of its massing, I acknowledge that the building would be somewhat greater in mass than the surrounding outbuildings. This would primarily be in relation to its length. A reasonable size garden area would however remain and when combined with its acceptable scale and siting, there would not be unreasonable harm caused as a result.

14. The proposed development would therefore comply with Policies SP4.1 and DM10 of the Croydon Local Plan (2018) and Policy D3 of the London Plan (2021). Collectively, these policies require, amongst other things, that developments are of high-quality design having regard to the local character and context.
15. As I have found that the proposed development would not result in the creation of a separate dwelling, policy SP2 of the Croydon Local Plan (2018) that relates to the provision of new homes, is not applicable.

Other Matters

16. I note that objection was received in relation to noise disturbance from the existing property with concern being expressed that the proposed development would exacerbate this matter. The impact on the living conditions of occupants of surrounding residential properties is not pertinent to the main issue. Furthermore, there is no substantive evidence that the proposed development would lead to unacceptable noise or disturbance.
17. Representation has been made in relation to the use of brick when the surrounding properties are rendered. Given the degree of separation, the proposed building would not cause unacceptable visual harm through the use of brick.
18. In terms of light, the proposed building is of such a scale and degree of separation that any loss of light to surrounding residential properties, when considered against existing boundary treatments would be minor, and would not cause unacceptable harm.
19. Any impact from light emanating from the building would not be out of context in this dense urban area. Lighting would be of a domestic scale and would be sited a reasonable distance from surrounding properties. I do not find unacceptable harm in this regard.
20. In terms of means of escape, the development will be required to comply with the applicable building regulations and there is no substantive evidence before me to suggest planning permission should be withheld on this basis.

Conditions

21. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans for the avoidance of doubt and in the interests of certainty.
22. In the interests of the character of the area and living conditions, to avoid the building forming an independent dwelling, it is also necessary to impose a planning condition requiring that the development is ancillary to the main dwelling.

Conclusion

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

A M Nilsson

INSPECTOR