



Appeal Decision

Site visit made on 3 September 2021

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13.10.2023

Appeal Ref: APP/L5240/D/23/3323519

30 Oaklands Avenue, Thornton Heath, CR7 7PH

- 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 Mrs Asifa Khan against the decision of the Council to the London Borough of Croydon.
 - The application Ref 23/00396/HSE, dated 31 January 2023, was refused by notice dated 29 March 2023.
 - The development proposed is described as retrospective application for erection of a single storey rear extension (following demolition of existing) and erection of outbuilding in rear garden.
-

Decision

1. The appeal is dismissed insofar as it relates to erection of a single storey rear extension (following demolition of existing). The appeal is allowed insofar as it relates to the erection of outbuilding in rear garden at 30 Oaklands Avenue, Thornton Heath, CR7 7PH, in accordance with the terms of application Ref 23/00396/HSE, dated 31 January 2023 and the plans submitted with it, so far as relevant to that part of the development hereby permitted.

Preliminary matters

2. The description for the development suggested by the Council and agreed by the appellant refers to it as a *"retrospective application."* As planning permission cannot be granted retrospectively, in this decision I refer to the proposal as: *"the erection of a single storey rear extension (following demolition of existing) and erection of outbuilding in rear garden."*
3. For the avoidance of any doubt, I confirm that this decision relates solely to the proposed single storey rear extension and the flat roofed outbuilding located at the end of the rear garden, which have already been constructed. It does not relate to any other existing alterations to the dwelling.

Main Issues

4. The first main issue is the effect of the proposal on the living conditions of the occupiers of 28 Oaklands Avenue (No.28) with particular regard to daylight, sunlight and visual impact. The second main issue is whether the proposal would incorporate adequate fire safety standards.

Reasons

Living conditions

5. The Appeal property is located within a terrace of two storey houses, with enclosed south facing rear gardens. Many of the dwellings have single storey rear extensions and/or outbuildings of various sizes and designs.
6. The proposed single storey rear extension has a flat roof and projects 4.8 metres into the rear garden. It stretches across the full width of the plot and has a number of windows and doors that face into the rear garden. The proposed outbuilding similarly has a flat roof and fills the width of the plot.
7. Together and amongst other things Policies D3 & D6 of the London Plan (2021) and Policies SP4.2 & DM10.6 of the Croydon Local Plan 2018 (LP) seek to optimise the development of existing sites, whilst enhancing local context and protecting the living conditions of the occupiers of neighbouring properties. Development should deliver appropriate outlook, privacy and amenity and should not result in a significant loss of existing sunlight or daylight. Development should achieve indoor and outdoor environments that are comfortable and inviting to use and enhance social cohesion and well-being.
8. The attached dwelling at 32 Oaklands Avenue (No.32) has two rear extensions which project approximately half the depth of the proposed extension. The extension closest to the appeal property has obscure glazing and a translucent roof. As a consequence, the proposed extension does not have a significant impact on the outlook from the immediately adjacent extension at No.32, although it does result in some loss of daylight and sunlight. Due to the distance and juxtaposition between the proposed extension and the larger rear extension at No.32 the proposed extension does not have an unduly enclosing visual impact on the outlook from the larger rear extension at No.32. Similarly, it does not result in an unacceptable loss of daylight or sunlight. For these reasons the proposed rear extension does not have a materially adverse impact on the living conditions of the occupiers of No.32.
9. The existing rear extension at No.28 is located on the westerly half of the rear elevation of that property. It comprises a modest sized timber framed structure with large areas of glazing and a translucent roof. The proposed extension is located on the easterly side and in close proximity to the adjacent rear facing habitable room door and windows at No.28. It projects above the existing boundary wall and 4.8 metres beyond the adjacent rear facing fenestration at No.28. Due to its combined height and depth the proposed extension is clearly prominent and visually overbearing in the outlook from the adjacent rear facing windows and the immediately adjacent rear garden area at No.28.
10. The proposed rear extension results in a material loss of daylight and sunlight within the adjacent rear facing room and garden area at No.28, during the mornings. However, due to the modest size and glazed nature of the existing rear extension at No.28, together with the southerly/westerly aspect of that property, the rear facing rooms and garden at No.28 continue to receive good levels of daylight and sunlight. Accordingly, whilst the loss of daylight and sunlight exacerbates the visually overbearing impact of the proposed extension, in itself this would not amount to a reason for dismissing this appeal.

11. Overall, due to its overbearing visual impact, the proposed rear extension materially and unacceptably detracts from the living conditions of the occupiers of No.28. This harm clearly outweighs the benefits for the appellant and their family that results from the additional living space. It is not a matter that could be satisfactorily addressed through the imposition of conditions.
12. In reaching this conclusion, I have taken into account the availability of current permitted development rights as set out in the Town and Country Planning (General Permitted Development) (England) Order, relating to both rear extensions and boundary fences/walls.
13. There are numerous outbuildings within the area and this includes one that is similar in form and appearance to the proposed outbuilding. The walls of the proposed outbuilding are finished with white render, which respects the use of render within the terrace and its flat roof reflects the wide use of flat and shallow pitched roofs within the rear garden environment. As a result, the proposed outbuilding respects the host dwelling and the surrounding rear garden environment and does not have a materially adverse impact on the living conditions of the occupiers of the adjacent dwellings. It is noted that the Council similarly has raised no concerns regarding the proposed outbuilding.
14. The council has suggested the imposition of conditions which require the development to be carried out in accordance with the submitted drawings and that the external materials match those of the host dwelling. The proposed outbuilding has rendered walls which match the host dwelling and the terrace as a whole. Whilst the proposed rear extension has brick walls, this adds texture to the appearance of the extension and reflects the use of brick and tile hanging within the rear garden environment. It blends in with the overall character of the rear garden environment. Accordingly, I do not consider that either of these conditions would be necessary. Similarly, as the proposed development has already been constructed the standard time limit condition is unnecessary.
15. I conclude on the first main issue that the proposed rear extension has a materially adverse impact on the living conditions of the occupiers of No.28, due to its overbearing visual impact and associated loss of daylight and sunlight. Accordingly, in this respect the proposal conflicts with Policies D3 & D6 of The London Plan, LP Policies SP4.2 & DM10.6 and paragraph 130 of the Framework. Conversely the proposed rear outbuilding, does not have a materially adverse impact on the living conditions of nearby residents and complies with the above conditions.

Fire safety

16. Policy D12 of the London Plan states that development must achieve the highest standards of fire safety, through their construction, appropriate fire alarm systems and passive fire safety measures, as well as the provision of means of escape and unobstructed outside space.
17. The appellant has not submitted evidence to demonstrate that the highest standards of fire safety are or could be achieved. Notwithstanding this, the Council has suggested the imposition of a condition which would secure such measures.

18. For this reason, I conclude on the second main issue that, subject to this condition, I am satisfied that the proposed rear extension would meet the highest standards of fire safety, in accordance with Policy D12 of The London Plan.

Conclusion

19. Having regard to my conclusion on the first main issue I have considered the possibility of issuing a split decision. As the proposed rear extension and the proposed outbuilding are physically and functionally independent, I am satisfied that it would be appropriate to issue a split decision in this instance. Therefore, the appeal is dismissed in relation to the proposed rear extension and allowed in relation to the proposed rear outbuilding.

Elizabeth Lawrence

INSPECTOR