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# Appeal Decision

Site visit made on 26 September 2023

**by Jane Smith MA MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 31<sup>st</sup> October 2023**

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**Appeal Ref: APP/L5240/W/22/3305117**

**37 Havelock Road, Croydon CR0 6QQ**

- 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 Shah against the decision of the Council of the London Borough of Croydon.
  - The application Ref 22/00213/FUL, dated 20 January 2022, was refused by notice dated 13 April 2022.
  - The development proposed is described as 'construction of a timber outbuilding in the rear garden for office/storage use by occupiers of each of the flats within the main building'.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appeal form referred to the appeal site as Flat 1, Bhima Court, 37 Havelock Road. The appellant has confirmed that references on the plans to a different site address and applicant is an error. I am satisfied that the plans and elevations submitted with the application accurately illustrate the proposed development and its intended location to the rear of the flats at 37 Havelock Road. In the banner heading above, I have used the address given on the application form.
3. The description of the proposed development was amended by the Council to include reference to the proposed home office use as well as storage. The appellant has confirmed that the revised description more accurately describes the proposed development and I agree. I have therefore used the Council's description in the banner heading above.
4. The appellant has confirmed that no additional parking space is proposed, despite reference to parking in the Planning Statement dated December 2021. I have considered the appeal on that basis.
5. A Fire Statement dated August 2022 was provided with the appeal, in response to the second reason for refusal. This elaborates on proposed fire safety measures, which do not involve any changes to the external appearance of the proposed outbuilding. The Council has had the opportunity to respond and, given the nature of the additional evidence, there is no risk of prejudice to interested parties. I have therefore taken the Fire Statement into account when considering the appeal.

## Main Issues

6. The main issues are:

- the effect of the proposed development on the character and appearance of the East India Estate Conservation Area, and
- whether the proposed development would include suitable fire safety measures.

## Reasons

### *Effect on Character and Appearance of Conservation Area*

7. The appeal site contains a semi-detached villa which has been extended and sub-divided to form three flats. At the rear, the garden has also been sub-divided, providing three small gardens or yards, each enclosed by close boarded fencing. There is also an additional area at the rear, which is currently overgrown and apparently unused, where the proposed outbuilding would be located.
8. The site is within the East India Estate Conservation Area. The Conservation Area occupies land which had historically been used as a military training college but was redeveloped for residential purposes from the 1860s onwards. It includes a concentration of well detailed residential buildings dating from the Victorian and Edwardian eras. The significance of the Conservation Area also includes its spatial quality and formal layout, based on a strong 'ladder' structure of six parallel roads. Buildings are laid out in regular perimeter blocks, with the building line along the street frontage and the overall depths of plots remaining consistent with the original 1860s layout.
9. The Conservation Area Appraisal (CAA)<sup>1</sup> identifies 37 Havelock Road as one of several unlisted buildings which contribute positively to the character and appearance of the Conservation Area. The CAA also identifies back garden development as being among identified threats to the special character of the Conservation Area, due to the potential disruption to the area's spacious character and loss of green spaces.
10. The CAA does include principles for accommodating small-scale outbuildings, provided they preserve views across gardens and do not cause the removal of existing trees. However, the proposed outbuilding would not be particularly small in scale. Although its height would be subservient to that of the surrounding buildings, its footprint would extend across the full width of the rear garden. With a depth exceeding 6 metres from front to rear, it would occupy much of the area behind the three existing fenced-off garden areas. Considered as a whole, the rear garden would be fragmented into several visually enclosed elements, with the rearmost section being dominated by the additional built form now proposed.
11. Public views of the outbuilding from Havelock Road would be largely obscured, since it would be located well back on the site, behind the host building and a close boarded side gate. However, views into the back gardens from Elgin Road, at the rear, are less restricted. From this perspective, the further erosion of garden land would be more clearly apparent. The building would interrupt

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<sup>1</sup> East India Estate Conservation Area Appraisal and Management Plan Supplementary Planning Document 2014

views across the rear gardens, contrary to the guidance in the CAA. Although no existing trees would be removed, the development would erode the spacious, green character of the rear gardens, which is among the characteristics which contribute to the significance of the Conservation Area.

12. A 2021 appeal decision<sup>2</sup> acknowledged that a modest, single storey incidental outbuilding in this position could preserve the sense of spaciousness. However, the Inspector went on to find that a building of a comparable scale to the current proposal was harmful to the character and appearance of the Conservation Area.
13. The amended design now proposed would be less suburban in appearance than the previous appeal proposal, and more typical of an ancillary domestic outbuilding. The use of external timber boarding would distinguish the building from the materials used in the main street frontage buildings and the quality of the detailing could be secured by means of appropriate conditions. However, the design would still have an overly large, boxy and rather utilitarian flat roofed form. It would have a stronger and more intrusive visual presence than any boundary treatment likely to be erected and would have materially larger proportions than are typical of existing outbuildings in the surrounding gardens.
14. For the above reasons, I conclude that the proposed development would fail to preserve the character or appearance of the Conservation Area and would be harmful to its significance as a whole. Given the proposal's location to the rear of the site, with limited public views, the harm to the significance of the Conservation Area would be less than substantial. However, that does not imply that it should be treated as a less than substantial objection to the proposal and I have attached considerable importance and weight to the desirability of avoiding such harm, in accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
15. Paragraph 202 of the Framework states that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, such harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
16. The proposed use of the outbuilding is for home office facilities and/or storage, for use by occupiers of the three flats. That being the case, there would be benefits for the occupiers, including the availability of facilities to support home working separate from the main habitable accommodation. This is primarily a private benefit. There may also be some modest public benefit associated with increased availability of flexible accommodation supporting home working in the Borough. However, I have not been presented with any objective evidence of a deficiency in such facilities at present.
17. Although the appellant suggests that there would be some environmental benefit arising from the proposed design approach, I disagree for the reasons set out above. There would be some modest economic benefit arising from construction activity to implement the proposed development. However, this would be inherently very limited, given the nature of the proposal.

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<sup>2</sup> Appeal Ref: APP/L5240/W/21/3274321

18. When considered in combination, the public benefits of the proposal would be very modest. I have accordingly given them limited weight. Set against those benefits is the considerable importance and weight I have attributed to the harm to the East India Estate Conservation Area, in line with the statutory duty outlined above. On that basis, the harm to heritage assets is not outweighed by the public benefits of the proposal.
19. For the above reasons, I conclude that the proposed development would not preserve or enhance the character or appearance of the East India Estate Conservation Area. I furthermore conclude that any public benefits associated with the proposal would not outweigh the harm to the significance of this designated heritage asset. As such, the proposal conflicts with relevant paragraphs of the Framework and other national guidance relevant to development affecting heritage assets.
20. For the same reasons, the proposed development would conflict with Policies DM10 and DM18 of the Croydon Local Plan 2018 and Policy HC1 of the London Plan 2021. These policies, amongst other things, require that development should demonstrate high quality design and that the significance of heritage assets should be preserved or enhanced.

#### *Fire Safety*

21. The outbuilding would be to the rear of an existing residential building, which fronts a public highway accessible by fire appliances. An external path provides a potential evacuation route to the street and evacuation to the rear garden area would also be possible. The Fire Statement confirms that the development would comply with the Building Regulations in relation to fire safety, that fire resistant structural elements would be deployed, that a fire detection and alarm system would be installed and that installation of fire extinguishers would be possible.
22. Policy D12 of the London Plan requires submission of a more comprehensive fire safety strategy, prepared by an independent assessor, where major development is proposed. However, the appeal proposal is not defined as major development. The Fire Statement addresses the issues listed in Part A of Policy D12, at a level of detail which is proportionate to the scale and nature of the proposed development. Compliance with the proposed measures could have been secured by means of planning conditions, had I been minded to allow the appeal. Although the Council has not commented on the contents of the Fire Statement, I note that a condition along those lines is among those recommended in the Council's Statement of Case.
23. Taking account of the evidence in the Fire Statement, I conclude that the proposed development would include suitable fire safety measures, which could have been secured by imposing appropriate planning conditions. As such, the proposal does not conflict with Policy D12 of the London Plan which sets out a range of requirements to ensure that all development proposals achieve the highest standards of fire safety, to ensure the safety of all building users.

#### **Other Matters**

24. I have considered the appeal on the basis that the proposed use is as described in the application. In particular, I have noted that the appellant refutes any suggestion that the proposed outbuilding would be used as main living or

sleeping accommodation and invites imposition of a condition preventing such uses. However, the imposition of such a condition would not overcome the harm to the significance of the Conservation Area, or its character and appearance, as described above.

### **Conclusion**

25. The proposed development would fail to preserve the character or appearance of the Conservation Area. It would result in less than substantial harm to a designated heritage asset, which is not outweighed by public benefits. Having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

*Jane Smith*

INSPECTOR