



Appeal Decision

Site visit made on 13 February 2024

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th June 2024

Appeal Ref: APP/L5240/W/23/3320441

19 Ashburton Road, Croydon CR0 6AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Abbas Datoos against the Council of the London Borough of Croydon.
 - The application Ref 23/00537/FUL, is dated 8 February 2023.
 - The development proposed is reduction in size and conversion of existing outbuilding into a self-contained 2 bedroom dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for reduction in size and conversion of existing outbuilding into a self-contained 2 bedroom dwelling at 19 Ashburton Road, Croydon CR0 6AP in accordance with the terms of the application, Ref 23/00537/FUL dated 8 February 2023, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs has been made by Mr Abbas Datoos against the Council of the London Borough of Croydon. This will be subject to a separate decision.

Preliminary Matters

3. The appeal is made against the failure of the Council to give notice of its decision within the prescribed period. The Council has nevertheless provided an officer's report indicating that it would have refused planning permission and setting out its area of concern with regard to the proposal.
4. However, since the start of this appeal, further appeal decisions¹ ('the 2022 and 2023 appeals') have been issued at this site, and I have provided the main parties opportunity to comment upon their relevance to the case before me. Pursuant to this, the Council has since advised that it no longer wishes to retain its only ground for contesting this appeal.
5. Accordingly, my duty under s72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 ('the Act') to pay special attention to the desirability of preserving or enhancing the character or appearance of the India Estate Conservation Area, and the representations made by interested parties, have framed my main issue.

¹ APP/L5240/W/22/3305726, APP/L5240/W/23/3315790 & APP/L5240/W/23/3315535

Main Issues

6. The main issue is the effect of the proposal upon the character and appearance of the East India Conservation Area ('the CA').

Reasons

7. The appeal site is located within the East India Conservation Area. In the 2022 and 2023 appeals, a previous Inspector identified that the significance of the CA is derived from the relationship between the area's distinctive linear street pattern and the rows of generally traditional residential buildings that front onto them. That Inspector also found that set on mostly consistent building lines, with generally long and narrow gardens to the rear, the rows of buildings give the CA an attractively formal and well-ordered character and appearance, with a relatively spacious garden scene. Insofar as they are relevant to this appeal, I have no reason to disagree with these findings.
8. In addition, previous Inspectors in appeals submitted in 2019², 2021³ and a further appeal submitted in 2022⁴ have all reached broadly similar conclusions in respect of the existing outbuilding, in that as a result of its scale and design, along with a position widely visible from other properties, it detracts from the character and appearance of the CA. Again, I have no reason to disagree with these findings.
9. Like the Inspector in the 2022 and 2023 appeals⁵, I have assessed the effect of the proposal in the context of the existing large outbuilding, which although I observed is in a declining state of repair, would nevertheless be likely to be retained should the appeal fail.
10. Although not widely visible from the street, the proposal would be visible from surrounding properties, and to some extent, gardens. The location of a residential property within a rear garden would be inconsistent with the prevailing character of the area. The Croydon Council East India Estate Conservation Area Appraisal and Management Plan ('the CAA') states that development in back gardens will generally not be permitted due to the potential of disruption to the character of the CA and loss of green spaces. However, as set out above, a building already exists within the rear garden and would likely be retained if the appeal were to fail. Accordingly, there is a baseline of existing harm to the CA in this respect.
11. The proposal would result in a smaller building than currently exists, with narrower areas at the eastern and western extents, in order to provide areas of private garden. By increasing the area of garden land and including a green roof with no rooflights, the proposal would go some way to restoring the spacious garden scene to the rear of the terraces that forms part of the significance of the CA. The proposed green roof would also enable the building to assimilate into the garden, particularly when seen from a higher level. Together these factors would represent an improvement in comparison to the existing situation.

² APP/L5240/W/19/3242553

³ APP/L5240/W/21/3266452

⁴ APP/L5240/W/22/3293516

⁵ See footnote 1

12. The proposal would incorporate a number of window openings, and whilst these would be larger than existing, they would be fewer in number. Whilst the proposed use of the building and larger window openings could result in a more domestic nature to the building in comparison to the existing structure, this would be mitigated, particularly during darkness, through the use of smartglass glazing technology and this would prevent the building having an overtly domestic character. The proposed folding doors, although forming a large opening would be orientated such that they would not be widely viewed from surrounding properties and gardens and would be at least partially screened by existing boundary treatments which include a substantial wall.
13. Taking this reasoning together, I find that overall, the proposal would have a neutral effect on the character and appearance of the CA.
14. I therefore conclude that the proposal would preserve the character and appearance of the CA. It would be in accordance with Policies HC1 of the London Plan and Policies DM10 and DM18 of the Croydon Local Plan, which together, and amongst other factors, seek to ensure that development is of a high quality that respects the pattern of development and preserves or enhances the character, appearance and significance of heritage assets. It would also accord with the National Planning Policy Framework ('the Framework') in relation to the delivery of well-design places and the conservation and enhancement of heritage assets.

Other Matters

15. Interested parties have raised concerns in relation to the effect of the proposal upon the living conditions of occupiers of nearby properties in relation to loss of privacy and light, as well as increased noise and disturbance as a result of the proposal.
16. The scheme involves reducing the size of the existing building. As such, it would not result in any harm to existing levels of light available to the occupiers of nearby properties. It would also result in windows facing towards the rear elevation of 19 Ashburton Road ('No 19'). Appropriate boundary treatments, which can be secured by means of planning condition, would ensure that adequate privacy would be retained by the occupiers of No 19.
17. I accept that the proposal could lead to a greater level of activity at the site, including an increase in the use of the existing pathway to the side of No 19. This could result in additional noise being generated at the site. However, given the scale and likely occupancy level of the proposal, any increase in activity or noise would be minor, would reflect the residential nature of the area and would not amount to unreasonable harm. I also note that the Council has raised no concern in this respect and a previous Inspector found another proposal at the appeal site acceptable in this regard also. I have no reason to disagree.
18. The proposal would result in changes to the current external space arrangements provided for No 19, in that the rear garden would become a shared communal space and that bin and cycle storage, as well as a disabled parking space would be provided to the front of the property. Although the nature of the outdoors space would change, it has not been shown that either the occupiers of the proposal or no 19 would be left with inadequate external space.

19. It has been put to me that the existing building may not have been constructed in accordance with approved plans or is unauthorised. However, no substantive evidence has been presented to me in relation to this, and in any event, it is not within the scope of this appeal to determine the lawfulness of the existing structure. It is noteworthy that the Council have raised concerns in this respect, and I therefore have afforded the existing structure weight in my considerations, as have previous Inspectors.
20. It has been suggested that the proposal would lead to an increase in the transient population in the area, to the detriment of community cohesion. However, the occupancy tenure of the proposal is a matter for the appellant and the scheme has not been advanced as a House in Multiple Occupation. Being mindful of the modest size of the proposal which would amount to two bedrooms, it has not been shown that the tenure of occupancy would be likely to have a significant effect on the character of the area such that it would amount to unacceptable harm.
21. I acknowledge that this appeal is the latest of a number of appeals submitted in relation to this site, however it remains within the right of the appellant to submit such appeals for determination, and this has not influenced my decision.
22. A number of appeal decisions⁶ which have been both allowed and dismissed at the appeal site and relating to various iterations of schemes to convert the existing building have been put to me. Naturally, there are various similarities and differences between these schemes and that is reflected in the decisions reached by previous Inspectors. Whilst I have considered this appeal on its own merits, I have had regard to all of these previous schemes and decisions in reaching my conclusions.

Conditions

23. I have made amendments to the Council's suggested conditions, where necessary, in order to ensure clarity and compliance with the tests set out in Planning Practice Guidance ('PPG') and the Framework. Where necessary, I have received agreement from the appellant with regard to pre-commencement conditions in accordance with Section 100ZA(5) of the Town and Country Planning Act 1990.
24. In addition to the standard time limit condition, I have attached a condition requiring adherence with the approved plans in the interests of clarity and securing a satisfactory form of development in the interests of the character and appearance of the CA.
25. Given the proximity of the site to other residential properties, a condition relating to the management of construction activities is attached in order to preserve the living conditions of occupiers of these properties. This condition is pre-commencement in order to ensure that suitable management measures are in place from the outset of construction work.
26. A condition relating to details of external materials and glazing is necessary and attached in the interests of preserving the character and appearance of the CA, as is the requirement to provide a landscaping scheme. Details of boundary

⁶ See footnotes 1, 2, 3 & 4

treatments are also required in order to prevent harm to the living conditions of occupiers of nearby properties.

27. A condition relating to the provision of cycle parking and bin storage is necessary in order to ensure that the proposal is adequately serviced, as well as in the interests of the character and appearance of the CA. I have also attached a condition relating to adherence with the provided fire safety details, which is required in the interests of safety.

Conclusion

28. The proposed development would accord with the development plan as a whole, and there are no material considerations, including the Framework, that would lead me to conclude that a decision should be made other than in accordance with the development plan.
29. For the reasons given above, I conclude that the appeal should be allowed, and planning permission granted.

C Harding

INSPECTOR

****SCHEDULE OF 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:

E100 – Existing Location Map Rev 01

P3-104 – Proposed Elevations and Building Section – Option 3 Rev 01

P3-103 – Proposed Floor Plans – Option 3 Rev 01

Proposed Site Block Plan – Option 3 Rev 01

3. No development, including demolition, shall commence until a Construction Management Plan, to include the following information, has been submitted to and approved in writing by the local planning authority:
 - a) Hours of demolition and construction;
 - b) Hours of deliveries, and;
 - c) Dust control methods.

The approved Construction Management Plan shall thereafter be adhered to throughout the construction period of the development.

4. No development above floor slab level shall take place until details of the materials to be used in the external surfaces of the development, including details of the 'smart glass' glazing technology, have been submitted to and approved by the local planning authority. The development shall be constructed in accordance with the approved details and the 'smart glass' glazing shall be retained as such thereafter.

5. No development above floor slab level shall take place until details of the following have been submitted to and approved in writing by the Local Planning Authority:
 - a) cycle parking provision including the type of cycle stands.
 - b) bin storage facility, including the size and number of bins.
6. The dwelling shall not be occupied until the cycle parking facility and bin storage facilities approved under Condition 5 have been provided in accordance with the approved details. Thereafter, they shall be kept available for the parking of cycles and storage of bins and used for no other purpose.
7. No development above floor slab level shall take place until details of hard and soft landscape works, together with a programme for their implementation, have been submitted to and approved in writing by the local planning authority. Hard landscaping shall include hard surfaces, walls, fences or other means of enclosure. Soft landscaping shall include species, size and density of new planting, including details of the green roof. The hard and soft landscape works shall be carried out in accordance with the approved details and the approved implementation programme. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
8. Prior to first occupation a Waste Management Plan, specifying how refuse from the site would be managed and collected, shall be submitted to and approved in writing by the local planning authority. Thereafter, the dwelling hereby approved shall only be occupied in accordance with the approved details.
9. The development shall be carried out in accordance with the fire safety details provided in the Planning Statement dated 7th February 2023.

****END OF SCHEDULE****