

SECTION '2' – Applications meriting special consideration

Application No : 17/00884/FULL6

Ward:
Kelsey And Eden Park

Address : 250 Upper Elmers End Road
Beckenham BR3 3HE

OS Grid Ref: E: 536791 N: 167703

Applicant : Mr Terry Reeves

Objections : YES

Description of Development:

Elevational alterations and single storey extension to garage and conversion of resultant building to 2 bedroom annexe for use by a family member with disability

Key designations:

Biggin Hill Safeguarding Area
London City Airport Safeguarding
Smoke Control SCA 51

Proposal

It is proposed to substantially alter the existing detached garage at the host property in order to provide a self-contained 2 bedroom detached residential annexe. The existing garage lies at the end of the residential garden and is accessed via a track leading from Lodge Gardens. It is proposed to erect a single storey extension to the garage which would wrap around the northern and western sides of the garage with a footprint that would follow the shape of the site at the rear, retaining a minimum side space of 1m to the north western boundary with the rear garden of No. 7 Asprey Mews. The existing lean to and separate shed adjacent to the garage would be removed.

The extension would incorporate a flat roof and would be 3.15m high. Windows are proposed to be provided in the northern, north western and western elevations serving, respectively, bedroom 1, a bathroom, a kitchen and bedroom 2. The converted/extended garage would also provide a reception room which would face towards the retained 2 car parking spaces. The total internal floor space of the resultant building would be approx. 60.06m².

The application is supported by a statement from the agent on behalf of the applicants which states that the purpose of the annexe is to provide supervised quasi-independent living quarters for a family member, the son of the applicants, who has special needs. Additional supporting information includes a copy of an Education, Health and Care Plan prepared with the London Borough of Bromley.

The covering document states:

"the purpose of this building is to prepare and provide... the applicant's son with secure, affordable and supervised independent living accommodation. The provision of this accommodation...will take away the probable future burden of responsibility from Bromley Council."

The statement details the level of supervision needed for food preparation and overnight, explaining that the transition from the young adult concerned having live in night-time support from a parent to living independently will be a long process. It is for this reason that the scheme has been designed to include a second bedroom.

The statement goes on to say that the applicants would be willing to enter into a legal agreement to prevent the possible future severance of the plot from the main house, in respect of their and future owner's occupancy.

The application form refers to the arrangement of access, household waste and postal services being via the main house.

Location

The host dwelling comprises an end of terrace dwelling with a long rear garden which widens at the end where the vehicular access from Lodge Gardens abuts the site and where the site boundary with the rear of Asprey Mews follows a curved line. The rear drive leading from Lodge Gardens provides vehicular access to the number of detached garages sited at the end of the residential gardens of dwellings fronting Upper Elmers End Road as well as serving the rear gardens of dwellings fronting Lodge Gardens.

To the west/north west of the site is the triangular plot of No. 7 Asprey Mews. To the south is the rear garden of 13 Holly Crescent. To the east is the rear garden of 252 Upper Elmers End Road and the vehicular driveway. The garage is sited approx. 27m from the rear of the host dwelling.

The surrounding area is residential, characterised by two storey terraced dwellings set, with the exception of the more modern development at Asprey Mews, within quite deep/large plots. Detached garages at the rear are common in the locality where dwellings back onto a quite wide rear vehicular access way. Off-street parking at the front facing Upper Elmers End Road is rare, and vehicles predominantly park on street.

Consultations

Local Representations

Nearby owners/occupiers were notified of the application and a letter of representation was received stating that there are no objections to the plans as they currently stand, with the annex/dwelling being accessed via the host property. If the access rights were to be changed at a later date (i.e. for visitor parking, postal deliveries/services, waste management) affecting the rear service road this would not be in accordance with the permission sought. The annexe would be sited

in close proximity to an area which provides regular vehicular access to a number of neighbouring properties.

Technical comments

From a technical highways perspective it is noted that the development will result in the loss of one parking space by partial conversion of the garage to habitable accommodation. However, there are spaces available within the site's curtilage which would be utilised for parking and on balance as the development is small there are no objections to the proposal.

Planning Considerations

The application falls to be determined in accordance with the following policies of the Unitary Development Plan and the London Plan:

BE1 Design of New Development
H8 Residential Extensions

Supplementary Planning Guidance 1 General Design Principles
Supplementary Planning Guidance 2 Residential Design Guidance

The Council is preparing a Local Plan and commenced a period of consultation on its proposed submission draft of the Local Plan on November 14th 2016 which closes on December 31st 2016 (under The Town and Country Planning (Local Planning) (England) Regulations 2012 as amended). It is anticipated that an updated Local Development Scheme will be submitted to Development Control Committee on November 24th 2016 and Executive Committee on November 30th 2016, indicating the submission of the draft Local Plan to the Secretary of State in the early part of 2017.

Draft Policy 6 Residential Extensions
Draft Policy 7 Additional Accommodation for Family Members
Draft Policy 37 General Design of Development

The London Plan

Policy 3.5 - Quality and design of housing development
Policy 7.4 - Local Character
Policy 7.6 - Architecture

Mayor of London Housing Supplementary Planning Guidance.

The National Planning Policy Framework is also a key consideration in the determination of this application.

Planning History

Under reference 06/02974 planning permission was granted for a single storey rear extension.

Planning permission was refused under reference 16/04532/FULL6 for "single storey and first floor extensions to existing garage in rear garden of 250 Upper Elmers End Road and conversion to form ancillary residential accommodation for a family member with special needs." Permission was refused on the grounds:

"The proposal by reason of its height, size and siting would be out of character with and detrimental to the visual and residential amenities of the area, and would be capable of severance to form a separate self-contained residential dwelling resulting in a retrograde lowering of the spatial standards of the area, thereby contrary to Policies BE1 and H8 of the Unitary Development Plan, Policies 3.5 and 7.4 of the London Plan and the National Planning Policy Framework."

This current application seeks to overcome the previous ground for refusal.

Conclusions

It is helpful to summarise the differences between this current application and the previously refused scheme (16/04532). The previous proposals incorporated first floor accommodation and the height of the resultant building was proposed to be 7.2m to ridge height and 5/4.2m to asymmetric eaves. In comparison, the current proposal would retain the height of the garage as existing, with the extension wrapping around the north-western corner of the garage footprint having a maximum height of 3.15m.

The footprint is slightly enlarged in order to provide the same room configuration (with smaller individual room sizes) within the extended and converted garage, and the proposal still provides 2 separate bedrooms along with a self-contained kitchen and bathroom. This current application has been submitted with more detailed information regarding the need for the annexe and the applicant's agent has stated that the applicant would be willing to enter into any legal agreement deemed necessary by the Council to prevent the potential severance of the annexe to form a self-contained dwelling.

The main issues in the determination of this application are considered to be the impact of the proposal on the residential amenities of neighbouring properties, the visual amenities and character of the area and the extent to which this current application addresses and overcomes the ground for refusal of planning permission under reference 16/04532.

Impact of the proposal on the residential amenities of neighbouring properties.

The current proposal represents a significant improvement over the previous scheme in terms of its height and bulk, such that it is not considered that the proposal would if used entirely as proposed, as an annexe to the host dwelling have a detrimental impact on the residential amenities of the occupiers of neighbouring dwellings. Where a separate dwelling would result in the concentration of all the normal activities of a household within a cramped plot and in a backland position, if used as an annexe and taking into account the proportions of the site it is not considered that the proposal would have an adverse

impact on neighbouring amenity. The height and design/appearance of the resultant building would be satisfactory in terms of its relationship to neighbouring residential dwellings and gardens.

Impact of the proposal on the visual amenities and character of the area.

The scale, height and siting of the built development is not considered to be detrimental to the visual amenities and character of the area. The modest height of the proposed extension and its relationship with the large existing garage would not result in the development appearing unduly bulky or prominent. In view of the siting of the resultant building within what is a generously deep plot, the proportions of the building would not result in a cramped development. The principal concern relating to the proposal in terms of its impact on the visual amenities and character of the area relates to the use and function of the building, and in particular the extent to which it could be severed to form a separate self-contained dwelling in an unsatisfactory backland position.

Policy H8 of the Unitary Development Plan relates to residential extensions. Para 4.47 states that residential extensions (so called "granny annexes") can provide accommodation which enables care for an elderly or disabled relative. However, it states that problems can arise where a development constitutes a self-contained unit which could potentially be severed from the main dwelling. The policy further states that the severance of the dwelling can result in substandard accommodation with inadequate privacy, access provision, parking and amenity space which is likely to be out of scale with the surrounding area and detrimental to neighbouring amenity. It is stated that these types of development should be designed to form an integral part of the main dwelling.

The proposed outbuilding features all of the requirements for self-contained living accommodation -- two bedrooms, a bathroom and kitchen and a separate living area. The proposed annexe has not been designed to form an integral part of the main dwelling, would have potential to be accessed entirely from the rear vehicular access way and would be orientated to face in that direction.

If severed, the resultant plot size, concentration of the noise and disturbance associated with a separate household and the space retained about the building would be out of character with the prevailing pattern of development in the locality and the spatial standards of the area. In view of the common pattern of large garden buildings/garages at the side of the vehicular access from Lodge Gardens the proposal would also set a precedent for similar such development in the locality which could lead to a retrograde lowering of the spatial standards of the area.

It is acknowledged that the built form would be sited to some extent in the context of the two storey dwellings at Asprey Mews, but importantly, would be positioned entirely behind buildings which front adjacent streets, comprising backland development, and would not form part of a planned layout of development.

Special circumstances

The application seeks to provide residential accommodation for a family member with special needs and the detailed circumstance and the information provided by the applicants, including the statement that the applicants would be willing to enter into an agreement deemed appropriate by the Council to prevent the potential future severance of the unit from the main host dwelling fall to be carefully considered along with the issues identified above.

It is considered that the proposal would result in the provision of a potentially self-contained unit of accommodation within the residential curtilage of the host dwelling which could be easily severed to form a separate unit of accommodation. In view of the siting of the building such a severance would be difficult to detect. The use of a planning condition to restrict the use of the building to ensure ancillary residential accommodation is provided rather than a separate residential unit would not be appropriate.

Paragraph 206 of the NPPF relates to planning conditions and states:

"Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects."

In the case of a condition intended to prohibit the potential severance of the unit from the main residential curtilage it is considered that such a condition would fail to meet the test of enforceability. Assessing whether the unit has been severed would place an unacceptable burden on the Local Planning Authority to implement periodic surveillance for the foreseeable future. Non-compliant use of the building as a self-contained/severed unit of accommodation would not be easy to discern and would only have to be implemented for a period of 4 years before comprising an established severed residential dwelling. The resultant impact of the severance of the site could be to result in substandard accommodation out of scale and character with the surrounding area.

The applicant has expressed a willingness to enter into a legal agreement to prevent the future severance of the plot. Such a legal agreement would be associated with the title property rather than the individual owners, applying not only to the existing owners but also to future owners of the property title. In the absence of concerns relating to the scale and siting of the development and the impact of the proposal if used entirely as stated within the application as an annexe to the host dwelling, it falls for Members to carefully consider whether a Section 106 agreement to prohibit future severance would address concerns relating to potential impact associated with that severance.

Summary

The scale and siting of the building would not result in a visually dominant development and would not be detrimental to the visual and residential amenities of the area.

The extended/converted garage could readily be severed to provide a separate sub-standard unit of residential accommodation within a backland setting, out of

character with the pattern of development in the locality and detrimental to the distinctive residential quality of the area. As such the proposal would not comply with the requirements of Policy H8 (and draft Policy 7) in respect of residential annexes. It is noted that in view of the width of the host end-of-terrace dwelling and the plot width at the immediate rear of the house, it would be difficult to provide an attached annexe of commensurate value in terms of achieving the aim of quasi-independent living at the immediate rear of the dwelling. It falls to be considered whether this factor weighs in favour of the development, along with the additional information which has been provided to justify the proposal in terms of its benefits to the applicant's family member.

If Members are minded to grant planning permission it is considered appropriate that this should be subject to the prior completion of a legal agreement which would stipulate that the residential annexe be occupied only by dependent relatives of the host dwelling at No. 250 Upper Elmers End Road, tying the occupation of the annexe to the existing dwelling and ensuring that it is not severed to form a separate independent dwelling by current or future owners.

Background papers referred to during production of this report comprise all correspondence on file ref(s).16/04532 and 17/00884, excluding exempt information.

as amended by documents received on 19.04.2017

RECOMMENDATION: PERMISSION SUBJECT TO THE PRIOR COMPLETION OF A LEGAL AGREEMENT

and the following conditions:

- 1 The development to which this permission relates must be begun not later than the expiration of 3 years, beginning with the date of this decision notice.**

REASON: Section 91, Town and Country Planning Act 1990.

- 2 Unless otherwise agreed in writing by the Local Planning Authority the materials to be used for the external surfaces of the development hereby permitted shall as far as is practicable match those of the existing building.**

REASON: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the appearance of the building and the visual amenities of the area.

- 3 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans approved under this planning permission unless previously agreed in writing by the Local Planning Authority.**

REASON: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the visual and residential amenities of the area.

You are further informed that:

- 1 This planning permission is subject to the prior completion of a Legal Agreement which shall require that the residential annexe be occupied only by dependent relative of the occupiers of the host dwelling at No. 250 Upper Elmers End Road and shall not be severed at any time to form a separate independent dwelling by current or future owners/occupiers of that property.**