
Appeal Decision

Site visit made on 25 August 2014

by J D Westbrook BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 September 2016

Appeal Ref: APP/A5270/D/16/3149833

19 St Marks Avenue, London, W7 2PN

- 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 Kirpal Singh Hundel against the decision of the Council of the London Borough of Ealing.
 - The application Ref PP/2015/5327, dated 28 July 2015, was refused by notice dated 13 November 2015.
 - The development proposed is the erection of an outbuilding for habitable use ancillary to the dwelling house.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of an outbuilding for habitable use ancillary to the dwelling house at 19 St Marks Avenue, London, W7 2PN in accordance with the terms of the application, Ref PP/2015/5327, dated 28 July 2015, and the plans submitted with it, subject to the following conditions:
 1. The development hereby permitted shall exclude the kitchen area arrangements shown on the "Floor Plan" within Drawing No 1136-1.
 2. The outbuilding hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 19 St Marks Avenue, London, W7 2PN.

Procedural matter

2. There is confusion regarding the description of the development as supplied by the appellant and the one used by the Council on the decision notice. The outbuilding is already built, and it would appear that it is subject to an enforcement notice issued in 2014 requiring the use of the outbuilding as a self-contained residential unit to cease, together with the removal of the kitchen, bathroom and drainage connections. The enforcement notice was appealed but was upheld by the inspector. The current proposal is described as "to retain the building for residential uses", which is somewhat ambiguous, whilst the Council has described it as being self-contained, which is apparently based upon the internal arrangements of the building as shown on the submitted plan. It appears from other information supplied by the appellant that the intention is for the building to be used as ancillary accommodation only, and that it should be more appropriately described as such. I have modified the description to reflect this.
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Main issues

3. The main issues in this case are the effect of the outbuilding on:

- the character and appearance of the St Marks Avenue area, and
- the living conditions of the occupiers of neighbouring dwellings, by way of privacy and disturbance.

Reasons

4. The appeal property is a two-storey, semi-detached house situated on the eastern side of St Marks Road. It has a long single-storey rear extension and a sizeable detached outbuilding at the end of the rear garden. The outbuilding has a footprint of some 5.4 metres by 5 metres, and has a height of some 2.5 metres to the eaves and 3.3 metres to the ridge. At the time of my inspection the outbuilding had fitted kitchen equipment within it, and it had a shower room.
5. The outbuilding was apparently constructed around 2006 and was used for around 4 years by the appellant's mother as a "granny-flat". Since this time it has apparently been used by family members as ancillary accommodation, and there is evidence to show that it has also been rented out as self-contained accommodation for around two years. An enforcement notice was served on the appellant requiring the cessation of use as self-contained accommodation and the removal of the kitchen, bathroom and drainage. The notice was upheld on appeal.

Character and appearance

6. The Council contends that the outbuilding would be out of character with the pattern of development in the surrounding area. However, it would appear that there are a number of extensions and outbuildings, of various sizes and designs, within the generally long rear gardens of the houses along this side of the road, in the vicinity of the appeal property. On this basis, the outbuilding would not be out of character with the general tone of development in the area, and it would not conflict with Policy 7.4 of the Council's Development Management, Development Plan Document (DPD) which requires new development to complement the local character.

Living conditions

7. There have been objections to the use of the outbuilding as self-contained accommodation on the basis of noise, loss of privacy, and emissions from a boiler and extractor fan. The objections appear to be based largely around the use of the outbuilding as self-contained accommodation, especially when it was occupied as a separate dwelling. This issue has already been dealt with under enforcement proceedings, and the current proposal is for the building to be used as ancillary accommodation.
8. There would not, on the face of it, appear to be any significant difference between the use of the outbuilding as currently proposed from that of the not uncommon use of such outbuildings as granny flats. Moreover, it is not unusual for residential properties to have outbuildings used, for example, as a personal

gym facility, where the existence of a shower area would not be unreasonable. In principle, therefore, I do not consider that the use of the outbuilding solely for purposes ancillary to the use of the host dwelling would be significantly detrimental to the living conditions of the occupiers of neighbouring dwellings. It is located at the far end of the back garden and is only single-storey. It does not, on this basis, result in any loss of privacy, and the issues of noise and emissions can be dealt with by suitable conditions relating to ancillary use, along with the extant enforcement requirements.

9. On this issue, therefore, I find that the proposed use of the outbuilding as ancillary accommodation only would not be harmful to the living conditions of the occupiers of neighbouring dwellings by way of privacy or disturbance, and that it would not conflict with Policies 7A and 7B of the DPD which require the protection of residential amenities in relation to a range of issues including emissions and loss of privacy.

Other matter

10. The Council has indicated that the outbuilding is too small to be appropriate for use as a self-contained unit, and that it is too close to the host dwelling to provide adequate amenity standards of space and privacy in such a use. I concur with these observations, and note that the building is well below the Gross Internal Floor Area requirements for a one-bedroom, one-person dwelling as set out in the Government's Technical Housing Standards – nationally described space standard. However, this issue is perhaps included by the Council as a result of the ambiguity in the appellant's description of the proposal, and the internal floor arrangements as shown on the submitted plan. I have dealt with this issue in the amended description and by way of conditions which exclude kitchen arrangements from the building and which restrict use of the building to ancillary accommodation only. I believe this to be in line with the intentions of the appellant for the use of the building, as stated in further information and the grounds of appeal.

Conditions

11. I have attached a condition relating to plans because it is necessary that the development shall be carried out in accordance with the approved plans as specified for the avoidance of doubt and in the interests of proper planning. I have attached a further condition relating to ancillary use only, to ensure that the building is not used at any time as a separate dwelling.

J D Westbrook

INSPECTOR