

Appeal Decision

Site visit made on 1 November 2016

by Sarah Housden BA (Hons) BPI MRTPI

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

Decision date: 9 November 2016

Appeal Ref: APP/U5930/W/16/3155715

86b Queens Road, Walthamstow, London E17 8QP

- 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 Ms Ulrike Schmidt against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 160188, which was undated, was refused by notice dated 11 April 2016.
 - The development proposed is 'erection of a garden room/summerhouse in my garden for storage and leisure use'.
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Decision

1. The appeal is allowed and planning permission is granted for garden room/summerhouse for storage and leisure use at 86b Queens Road, Walthamstow, London E17 8QP in accordance with the terms of the application, Ref 160188 which was undated and the plans submitted with it, subject to the following conditions:
 - 1) No later than one month from the date of this permission details of a dark, recessive paint colour for the building shall be submitted to and approved in writing by the local planning authority. The work shall be carried out in accordance with the details so approved no later than two months from the date of the approval of those details.
 - 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows shall be constructed in the east elevation of the garden room/summerhouse hereby permitted.
 - 3) The garden room/summerhouse hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 86b Queens Road, Walthamstow, London E17 8QP.

Procedural Matters

2. Notwithstanding the description of the development above, the garden room/summerhouse (hereafter referred to as 'the building') is already on the site and I have assessed the appeal on that basis. As retention is not an act of development under the above Planning Act, I have altered the description of the development in my formal decision accordingly.
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3. There is a window in the rear elevation of the building which is not shown on the submitted elevation plan. I have assessed the proposal on the basis of the building as constructed, with the window in place.

Main Issues

4. The main issues in this case are:

- the effect of the proposal on the character and appearance of the area; and
- the effect on the living conditions having particular regard to the effect on outlook for the occupiers of No 84 Queens Road (No 84).

Reasons

5. The appeal property is a traditional end of terrace property occupying a corner plot at the junction of Queens Road and Helena Road. It has been subdivided to form two flats, No 86b occupying the ground floor and accessed via a pedestrian gate in the boundary wall onto Helena Road.
6. The terraced houses on Queens Road and Helena Road retain their traditional form and design features including bay windows and decorated lintels and arched doorways. Opposite the appeal site, alterations to the terrace on Queens Road to create shops and commercial units have created a more mixed character and appearance.
7. The building has been erected in the rear garden of the appeal property, adjacent to an electricity sub-station which lies between No 3 Helena Road and the appeal site. It is a rectangular, timber clad building with an apex roof which falls marginally to the rear, approximately 6 metres wide, 3.9 metres deep and 2.5 metres high. It is raised slightly above ground level on bricks and has an electricity supply but no other services and no bathroom or kitchen facilities. At the time of my site visit it was being used for the storage of paint, wood and other materials in connection with the appellant's daughter's occupation as an artist.

Character and appearance

8. Policies CS2 and CS15 of the Waltham Forest Local Plan Core Strategy (2012) (CS) seek to ensure that development is of a high quality design which makes a positive contribution to improving the urban environment. Policies DM4 and DM29 of the Waltham Forest Local Plan Development Management Policies (2013) (DMP) require that development respects the street scene and enhances local character. Further advice is provided in the Residential Extensions and Alterations and Urban Design Supplementary Planning Documents (SPDs).
9. When viewed from Queens Road, the majority of the building is screened by the boundary wall and gates on Helena Road. However, the overhanging fascia and tops of the windows are visible. Its overall width, flat roof form and prominent fascia create a horizontal emphasis which is at odds with the pitched roofs and vertical emphasis of the surrounding terraced houses. However, when approaching from the opposite direction on Helena Road, it is seen in conjunction with the more modern dwellings at Nos 3 and 5, and the electricity sub-station and from this direction does not appear unduly prominent in the street scene.

10. I recognise that the building as erected does not fully comply with requirements of the the CS and DMP policies above and the advice in the SPDs to ensure high quality design in the urban environment. However, it has an unassuming appearance and having regard to the screening on the boundary and the mixed character of the wider area, I consider that it does not have a wider adverse effect on the street scene.
11. Paragraph 203 of the National Planning Policy Framework (the Framework) states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. The light coloured timber finish of the building accentuates its slightly discordant appearance and a darker, more recessive paint colour would help to assimilate the building into its surroundings. The appellant has indicated that she would be willing to paint the building a different colour. In these circumstances, the use of a planning condition to secure this would be justified.
12. Whilst the proposal would not fully comply with the requirements of CS Policies CS2 and CS15, DMP Policies DM4 and DM29 and the advice in the SPDs, I consider that the building is not materially harmful to the character and appearance of the area and that its appearance would be further improved by a recessive paint colour which could be secured by means of a planning condition. Whilst the Council has referred to DMP Policy DM32 in the first reason for refusal, that policy deals with neighbour amenity and is more relevant to the second main issue in this case.

Living Conditions

13. The rear wall of the building is located approximately 1.5 metres away from the common boundary with No 84 which is delineated by a 1.8 metre panel and trellis topped fence. The garden of No 84 is approximately 15 metres long with a flat roof outbuilding at the far end. A conservatory style extension to the rear of No 84 was nearing completion at the time of my site visit.
14. The Council has raised no concerns about the use being carried out within the building in terms of its effect on adjoining occupiers and I have no reason to disagree.
15. By reason of its single storey height and distance from the common boundary with No 84, I do not consider that the building would appear unduly overbearing or dominant when viewed from the rear garden or windows of No 84. The rear garden of No 84 is of a reasonable size and the building would not dominate the whole area.
16. The window in the rear elevation of the building is high level and serves a small store room and does not give rise to any overlooking of the garden of No 84. However, if lower level windows were to be inserted in the rear wall of the building to serve the main internal space, this would be likely to cause some overlooking of the garden of No 84 through the open trellis section at the top of the fence. In these circumstances, a condition to remove Permitted Development Rights for additional windows is justified and would meet the tests for conditions set out in the Framework.
17. Accordingly, subject to the imposition of a suitable condition to control the insertion of additional windows in the rear elevation, the development would

not conflict with CS Policies CS13 and CS15 or DMP Policies DM4, DM29 and DM32 and the advice in the SPDs, all of which seek to ensure that new development does not adversely affect health and well-being and neighbour amenity. Whilst the Council has referred to CS Policy CS2 in the first reason for refusal, the policy deals with the provision of new housing and is not directly relevant to living conditions.

Other matters

18. The building is located within the outdoor area at the rear of the flat. The remaining area is occupied by a small shed and covered areas to either side. The officer report indicates that 15m² of usable private garden space per habitable room should be provided for dwellings. However, I have not been provided with further details of that requirement and nor does it form part of the reasons for refusal.
19. Whilst the front garden is open to view and does not provide a private space, there are areas at the side of the property available for the storage of domestic items such as bins. There would be a reasonable area of outdoor space remaining for the occupiers of the appeal property.
20. There is nothing in the evidence nor from what I saw at my site visit to indicate that the building is being used as a separate unit of accommodation. However, given the physical separation of the building from the flat and its overall size, I have to consider the possibility of it being occupied as a separate dwelling in the future.
21. Given the limited services, lack of kitchen or bathroom facilities and basic form of construction, its occupation as a separate unit of accommodation would be unlikely. The garden is of a restricted size and the separation of the building as an independent dwelling would not afford satisfactory levels of privacy or garden space. I therefore consider that it would be unlikely that the building could be separated to form an independent dwelling either now or in the future.
22. A planning condition could be used to ensure that the use of the building remains ancillary to the main dwelling. This would accord with paragraph 203 of the Framework which states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. The model condition in national guidance is specifically designed to prevent the creation of an additional dwelling and would meet the tests for conditions set out in the Framework.

Conditions

23. A condition requiring details of a dark recessive paint colour to be agreed with the local planning authority and a timescale for its implementation is necessary in the interests of the character and appearance of the area. A condition removing Permitted Development Rights for additional windows in the rear (east) elevation of the building is necessary to safeguard the living conditions of adjoining occupiers. A condition restricting the use of the building is also necessary to ensure that it remains ancillary to the appeal property.

24. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Sarah Housden

INSPECTOR