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## Appeal Decision

Site visit made on 7 September 2016

**by Andy Harwood CMS MSc MRTPI**

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

**Decision date: 09 November 2016**

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**Appeal Ref: APP/A5270/D/16/3153923**

**4 Kathleen Avenue, Acton W3 0NG**

- 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 J Fernandez against the decision of the Council of the London Borough of Ealing.
  - The application Ref 160574HH, dated 3 March 2016, was refused by notice dated 28 June 2016.
  - The development proposed is the retention of an outbuilding for use as a storage garage.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of an outbuilding for use as a storage garage at 4 Kathleen Avenue, Acton W3 0NG in accordance with the terms of the application, Ref 160574HH, dated 3 March 2016, subject to the following 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: 'Block Plan' drawing number 'GC/001'; 'Outbuilding Floor Plan' drawing number 'GC/002'; and 'Outbuilding Elevations' drawing number 'GC/003'.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing dwelling.

### Procedural Matters

2. I am aware that an Enforcement Notice is in effect which relates to the existing outbuilding albeit for its use as a dwelling. The Enforcement Notice requires the demolition of the building and I cannot consider the appeal on the basis of it proposing a change of use of that unlawful building. The plans that have been submitted also show that there would be differences between the existing outbuilding and what is proposed rather than this being an application to retain what has been constructed. I have therefore altered the description of the development within my decision to reflect these circumstances.
  3. In addition to the outbuilding shown on the plans, a further building has also been constructed along the side boundary of the property. This appears to be an extension to a smaller building that is shown on the "pre-existing block
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plan” and “block plan”. An open fronted canopy exists across the back of the dwelling. No elevation drawings are provided for these other buildings and they are not reflected within the description of development. These buildings are not part of the development that I am considering in this appeal. I will deal with the appeal on the basis of the plans which show just the proposed detached outbuilding.

4. Some comments have been made about the use of the appeal site as a house in multiple occupation. No definitive information has been submitted about this. It is not for me in this appeal to rule upon that matter. I have considered the appeal on the basis that the outbuilding would be used for domestic purposes incidental to the enjoyment of No 4 Kathleen Avenue.

### **Main Issues**

5. The first main issue is the effect of the outbuilding upon the character and appearance of the area. The second is the effect of the outbuilding upon the living conditions of the occupiers at the property with respect to the size and quality of available amenity space.

### **Reasons**

#### *Character and appearance*

6. The appeal site is a semi-detached property within a residential part of Acton. The front of the dwelling faces onto Kathleen Avenue but there is also a rear lane that leads across the back of these properties linking with Wilfrid Gardens.
7. The existing outbuilding extends across the whole rear boundary of the property. It is ‘L’ shaped and the rear wall faces directly onto the rear lane. The flat roof is stated by the Council as being 2.6m high which is a little higher than some of the boundary walls and fences nearby. However, the back lane also includes other out buildings some of which are significantly higher than this, some of those with prominent gable ends. There is also a range of building materials used along the lane for these outbuildings and walls. The building currently does not look out of place from this main public viewpoint where garages and outbuildings are commonplace. The proposed building would be of similar proportions and general appearance as the existing building. The different details including the insertion of a garage door and removal of glass block panels would also look in keeping with other developments in the lane.
8. The height of the building does not protrude much above the side boundary walls between the site and the adjoining dwellings. The upper windows of the adjoining dwellings may have views down into the garden. However, the structure does not dominate the site or look out of scale with the existing dwelling being clearly visually subservient to it. It has the appearance of an outbuilding enclosing a small courtyard. The proposed building would have a similar appearance even though the dimensions and detailing as proposed would be a little different.
9. In relation to the first main issue, the outbuilding would have an acceptable impact upon the character and appearance of the area. This would comply with Policies 7.1, 7.4 and 7.6 of the London Plan<sup>1</sup> (LP) or 7.4, 7B and 7D of the

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<sup>1</sup> The London Plan adopted March 2015

## Development Management Development Plan Document<sup>2</sup> (DPD).

### *Living conditions*

10. The outbuilding has resulted in the creation of a small courtyard garden that I found to be very private and I could see that it would be a pleasant place to sit and for children to play in. The outbuilding would continue to shield the garden from the hustle and bustle of the surrounding area. The key to table D.2 within the DPD states that 50m<sup>2</sup> should typically be the amount of private garden space for a dwelling although this is not an absolute requirement. The key allows for some discretion taking account of physical context, local character and pattern of building amongst other things. In my view, even though it does not meet the typical size requirement, the quality of the space is adequate.
11. In relation to the second main issue, the outbuilding would allow for the retention of an acceptable area of outdoor amenity space and the living conditions of the occupiers at the property would be not be harmed. A high quality outdoor space would be secured for the occupants of the property complying with LP Policies 7.1 and 7.6 and DPD Policies 7B and 7D.

### **Other Matters**

12. The detached outbuilding as proposed would be a reasonable distance away from the backs of No 2 and No 6 Kathleen Avenue. It would be a little higher than some of the boundary enclosures but would not have a significant impact upon the amount of daylight reaching the backs of those dwellings or the garden areas. It would not cause an unreasonable degree of overshadowing. The windows in the building would look towards the backs of the dwellings within the terrace but they are at a low level and any views would be limited. The degree of overlooking from the garden area in this way is not unusual in a close knit urban area whether or not it is from the inside of a building or an open garden. I do not consider that the proposed building would cause harmful impacts upon the living conditions of the adjoining dwellings.
13. Some representations have made reference to possible breaches of planning control at the property. I have dealt with the appeal on the basis of what has been proposed. The Council can consider its existing powers if a breach of planning control occurs in future.
14. I have imposed a condition specifying the relevant drawings to provide certainty that the development will be implemented as proposed. Another should ensure that the materials match the existing dwelling.

### **Conclusion**

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

*A Harwood*

INSPECTOR

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<sup>2</sup> Ealing Development Management Development Plan Document, adopted 10 December 2013