
Appeal Decisions

Site visit made on 16 December 2016

by R J Perrins MA MCMI Arbor TechArborA

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

Decision date: 13 January 2017

Appeal Ref: APP/L5810/C/16/3155515

41 Hounslow Road, Twickenham, London TW2 7BZ.

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Prakash Tanna against an enforcement notice issued by the Council of the London Borough of Richmond-upon-Thames.
 - The enforcement notice, numbered 14/0175/EN/UCU, was issued on 28 June 2016.
 - The breach of planning control as alleged in the notice is the use of an outbuilding in the rear garden of the Land ("the Garden Flat") as an independent unit of residential accommodation.
 - The requirements of the notice are to cease the use of the Garden Flat as an independent unit of residential accommodation.
 - The period for compliance with the requirements is six calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Appeal Ref: APP/L5810/W/16/3147167

The Garden Flat, 41 Hounslow Road, Twickenham, London TW2 7BZ.

- 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 Prakash Tanna against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 15/3236/FUL, dated 21 July 2015, was refused by notice dated 16 October 2015.
 - The development proposed is use of existing outbuilding as single dwellinghouse.
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Decisions

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1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

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2. The appeal is dismissed.
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The appeal on ground (a) and the s78 appeal

Main Issues

3. I consider the main issues in these cases to be the effect of the development upon the living conditions of the occupiers of the outbuilding and adjacent properties; and the effect of the development upon the character and appearance of the area.

Reasons

Background

4. The appeal property lies to the west of Hounslow Road in a predominantly residential section of the street. The outbuilding sits adjacent to the rear boundary of the garden to No 41 spanning the width of the garden. There are residential gardens either side and a Hall within the Baptist Church grounds to the rear. Structures within rear gardens are not uncommon in the locality. At the time of my visit the outbuilding was occupied and access was via the side and garden to the rear of No 41.
5. The site has a planning history which includes an appeal in 2011 (ref:APP/L5810/A/11/2151736) for the *conversion of a single family dwelling house to 3 self-contained flats, erection of a 3.5m single storey extension, outbuilding to the rear of the property used for storage in connection with the second floor flat*. The outbuilding referred to is the 'Garden Flat' as named by the appellant and the Inspector in that case dismissed the appeal finding unacceptable harm to living conditions of occupiers of nearby properties and the character and appearance of the locality.

Living Conditions

6. I saw from my site visit that the outbuilding is well laid out and has most of the facilities one would expect for day-to-day living. A single area comprising living/kitchen and bedroom areas, along with a separate bathroom are well thought out with furniture accommodated well. A small garden area to the front is fenced for the sole use of the occupiers of the outbuilding. I have no reason to doubt that the present occupier is happy with the standard of living and has lived there for some time. However I must consider all future occupiers of the property and there is no dispute that it does not meet the Technical Housing Standards – Nationally Described Space Standards which require 37sqm of living space for a unit of this type. The undisputed figure of 25.5 sqm put forward by the Council is considerably below that in the national standard.
7. Furthermore I saw that there was very little circulation space around the bed and seating areas which was more akin to a small holiday let. Whilst on first appearances the internal area of the outbuilding appears well designed, I am in no doubt that overtime its use as a permanent residence would feel cramped and hemmed in. I say that without there being a round dining room table as submitted on drawing No 10251-511 P4 upon which the appellant relies to demonstrate adequate circulation space. It seems to me that such a table would further add to the feeling of being closed and hemmed in. For these reasons I find the flat provides an unacceptable standard of living space which would be harmful to the living conditions of occupiers of the unit.

8. In coming to that view I have considered the circulation space in some of the flats at No 43, to which the appellant has referred, but I do not have full details of how they came to be and I have, in any event, decided this case upon its own merits.
9. Turning to the effect on occupiers of adjacent properties I accept that No 43 has been subdivided into flats and that No 39 may be rented out to a number of tenants who share the kitchen. However, I do not accept that my colleague's decision in 2011 is irrelevant given No 41 is now two flats. The inspector in that case was considering three flats as I am now; in effect the use of the outbuilding has resulted in three flats on the site the only difference is one of the flats is in the garden. To that end I see no reason to disagree with my colleague; use of the outbuilding will have inevitably brought about a further increase in activity beyond that previously experienced as a single dwellinghouse or in the current form as two flats. Regardless of the level of use in the adjoining properties.
10. I say that as an independent dwelling has its own deliveries, comings and goings, and all the activities associated with a separate household. Whilst I accept the outbuilding is not overlooked nor are there views from it into adjacent properties, the fact that it is at the end of the garden does, to my mind, increase the harm by way of noise and disturbance to occupiers of adjoining properties. For these reasons I find the development has also led to unacceptable harm to the living conditions of occupiers of adjacent properties.
11. In addition to this is the loss of garden space, whilst the appellant asserts that there has been no loss as it still exists I do not accept that proposition. I say that as the garden space for the outbuilding is currently being used by the occupier of the premises, it is unavailable to the occupiers of No 41, it has therefore resulted in a loss of garden to that planning unit. This adds further to my concerns.
12. Thus the development is at odds with Policy CP14 of the London Borough of Richmond upon Thames Local Development Framework Core Strategy 2009 (the Core Strategy) which, amongst other things, seeks housing which will have no significant adverse effect on the amenity of occupiers of adjoining land and Policy DM HO 4 of the London Borough of Richmond upon Thames Local Development Framework Development Management Plan 2011 (the Development Management Plan) which seeks developments which provide adequate internal space. It is also at odds with the National Planning Policy Framework (the Framework) which seeks a good standard of amenity for all.

Character and appearance

13. There is no dispute that the outbuilding would be retained in any event. In that light it is not for me to consider its impact as an ancillary outbuilding to No 41; its impact on the pattern of built development in the locality will remain. However, that does not take into account its current use. In that regard, when viewed as a single dwellinghouse, it is unlike anything else in the locality. Cramped within its boundaries and occupying the end of the original garden it increases the density of housing, a concern raised by my colleague in the previous appeal, and is an odd addition to the general mix of housing nearby.
14. That to some extent is moderated by the conifer trees that surround it and restricted views into it. Although I'm in no doubt this has had an impact from

the views of the rear of nearby residential properties. Moreover, it is completely at odds with the prevailing character of dwellings in the locality which have a more traditional form and ample rear gardens; it's an incongruous addition to the residential landscape which leads the viewer to question how it came to be.

15. For these reasons the use has led to unacceptable harm to the character and appearance of the locality contrary to Policy CP14 of the Core Strategy insofar as it requires development to have an acceptable effect on visual amenity and Policies DM HO 3 and DN HO 4 of the Development Management Plan which, amongst other things, set out a presumption against the loss of back gardens due to the need to maintain local character, and the need for an appropriate mix of housing. It is also at odds with the Framework which seeks high quality design.

Other matters

16. The Council's 6th reason for refusal on the s78 decision notice makes reference to the absence of any affordable housing provision. The appellant submits that an undertaking would be provided. However since the application was determined, and before the enforcement notice was served, there have been changes to Government policy. Following the judgement of the Court of Appeal dated 13 May 2016 in relation to planning obligations for affordable housing from small scale residential schemes, the Government has reinstated its policy as expressed in the Written Ministerial Statement of 28 November 2014, to be read alongside the Framework. Accordingly, the Planning Practice Guidance has also been amended to state that affordable housing contributions should not be sought from developments of 10 units or less, and which have a maximum combined gross floor space of no more than 1000sqm.
17. Government policy and the planning guidance are material considerations to which I must afford significant weight. I therefore conclude that the absence of affordable housing provision does not weigh against the proposal. Moreover, it does not form part of the reasons for issuing the enforcement notice.
18. I have also considered the Council's concerns regarding parking. There is no dispute that the property is well served by public transport with easy access to Whitton Town Centre. The appellant's parking survey is undisputed. Therefore, there is nothing before me to corroborate the view that the development has had an unacceptable effect upon on-street parking or on highway safety in the locality. I also accept there would be space for cycle storage and that appropriate bin storage could be secured, near to the outbuilding, by way of condition. The storage area for bins would be located within the tolerances set out in the Supplementary Planning Document *Refuse and Recycling Storage Requirements*.
19. In addition there is nothing before me to suggest the appellant's assertion that as the outbuilding has been constructed it cannot be assessed against the BREEAM scheme.
20. Finally, I have some sympathy with the current occupier of the outbuilding and, as set out earlier, I accept that the premises may well fulfil his needs and be cheaper than similar premises elsewhere. I also have no reason to doubt his bonds with the local community and the stress caused by the circumstances he finds himself to be in. However, personal circumstances seldom outweigh

planning harm and it is unfortunate that it has been let without planning permission for the current use.

21. Thus the foregoing matters do not, on their own or in combination, outweigh the harm I have found. In the same way the provision of one residential unit, which would add to the government and London Plan objectives to increase the supply of housing, would not outweigh the significant harm that I have identified when assessed against the policies of the Framework taken as a whole.

Conclusions

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22. For the reasons given above and having considered all matters raised I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

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23. For the reasons given above I conclude that the appeal should be dismissed.

Richard Perrins

Inspector