

Appeal Decision

Site visit made on 8 March 2017

by J D Westbrook BSc(Hons) MSc MRTPI

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

Decision date: 28 March 2017

Appeal Ref: APP/C5690/D/3167284

104 Boone Street, London, SE13 5SA

- 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 Miss S Dogruel against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/14/086713, dated 3 March 2014, was refused by notice dated 15 November 2016.
 - The development proposed is the erection of an outbuilding in the rear garden.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. This appeal relates to an application for retrospective permission for an outbuilding erected in 2013. Objections to the alleged use of the outbuilding as a separate dwelling were made in February 2014, and the Council's Enforcement Officer visited the property that month to inspect the building and take photographs. The planning application was subsequently submitted in March 2014. The Officer's Report on the application notes an earliest decision date early in May 2014 and a time limit expiry later that month. It would appear that consultations on the application were sent out in April 2014.
3. The decision on the application was made only in November 2016, and the Officer's Report and the decision notice make reference to a number of documents published in the time between the time limit expiry and the issue of the decision. I have no information before me as to why the decision took well over 2 years to determine or why the Officer's Report was written so long after the submission of the planning application.
4. The submitted plan shows the rear elevation of the outbuilding with the patio doors and window in the reverse alignment from that shown on the floor plan and as existing on site. This does not have any significant implications for my consideration of the appeal.

Main Issues

5. The main issues in this case are the effect of the outbuilding on:
 - The character and appearance of the area around Boone Street,
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- The living conditions of the occupiers of No 104 Boone Street by way of amenity space, and
- The living conditions of the occupiers of adjoining dwellings by way of outlook

Reasons

6. No 104 is a two-storey, mid-terraced house situated on the western side of Boone Street. Boone Street comprises a mix of terraced houses and 3- to 5-storey blocks of flats. It is part of a relatively high density housing area to the north of the A20. The house has a medium sized rear garden, within which a timber outbuilding some 6 metres deep and 5 metres wide has been erected. It occupies virtually the whole width of the garden and is around 2.7 metres high. It is some 3 metres away from the rear boundary fence of the property, in which there is a gate leading to a path giving rear access to the property.
7. There is a single door into the building from the house side, and a double patio door leading from the building to a paved area at the rear. The single door gives access directly to a toilet/shower room. There are two other rooms in the building, one of which is some 10 sq metres in extent and used for domestic storage. The other room is some 13 sq metres in extent and was once used as a living room/kitchen. There is still evidence of plumbing, drainage and electricity supplies to the building, although all kitchen appliances and other equipment have now been removed, such that the larger room is now a shell.

Character and appearance

8. DM Policy 33 of the Council's Development Management Local Plan (LP) indicates that the development of back gardens for separate dwellings in perimeter form residential typologies identified in the Lewisham Character Study will not be granted planning permission. It would appear that the appeal site is located in such an area and, at the time of the first inspection by the Council in February 2014, the building was set up with an equipped kitchen, such that it had the potential to be used as a separate dwelling, although it did not meet the internal space standards as required by DM Policy 32 of the LP.
9. The appellant contends that the building has only ever been used by family relatives as a form of annexe incidental to the use of the main house. I have no reason to dispute this. Nevertheless, the building as constructed had, and retains, the potential to be used as a separate dwelling, particularly since the main entrance would appear to be at the rear using the totally separate access from the gate in the rear boundary fence and the pedestrian walkway beyond. The position and size of the building, being sited some way in from the rear boundary fence and extending as it does across the whole width of the plot, means that the small rear patio area is separated from the main garden, and there is no means of using the rear access to the appeal property other than by passing through the building.
10. In conclusion on this issue, I find that the outbuilding, by virtue of its scale, availability of services, and siting within the overall plot, retains the potential to be used as a separate dwelling, effectively with its own private garden area and access. On this basis, it conflicts with DM Policy 33 which seeks to prevent back gardens from being used as separate dwellings. The supporting information

relating to this policy notes that back gardens are considered to be an integral part of the original design of residential areas and provide valuable amenity space and an ecological resource. In this context, the outbuilding would have a harmful effect on the character and appearance of the residential area along and around Boone Street.

Living conditions of occupiers of No 104

11. The majority of properties on Boone Street and adjoining streets to the east are flats with little or no private amenity space for each residential unit. The houses on the west side of Boone Street, including the appeal property, are therefore amongst the few that have private back gardens which, as noted above, provide valuable amenity space.
12. The outbuilding as constructed effectively splits the back garden in two with no access between the two elements other than through the building itself, and in particular through its toilet/shower room. I therefore consider the outbuilding to be harmful to the living conditions of occupiers of No 104 by virtue of significantly reducing the size and effectiveness of the private amenity space at the rear of the property. It conflicts with DM Policy 33 of the LP and also with DM Policy 32 which requires development to meet the functional requirements of future residents.

Living conditions of occupiers of adjoining dwellings

13. The outbuilding is around 2.7 metres high and extends across the width of the plot to the boundary with each of the adjoining properties. The boundary with No 102 has a high hedge such that the building is barely visible from that house and its garden. The boundary with No 106 is only around 1.8 metres high and the outbuilding therefore represents a significant increase in height of the effective boundary treatment from a point only some 10 metres from the main rear elevation of the houses. No 104 is, however, to the north of No 106 and the increase in boundary height resulting from the outbuilding is unlikely to have any significant detrimental impact on the outlook from No 106. Nevertheless, there would be some impact and this adds to my concerns regarding the overall effects of the outbuilding on the character of the area and the living conditions of some of its residents.
14. On this issue, I find that the harm to living conditions of the occupiers of No 106 caused by the outbuilding would be minimal and would not, of itself, be reason to refuse the development. Nevertheless, the development is not neighbourly and therefore conflicts with DM Policy 32 of the LP on this basis, albeit to a very limited extent.

Other Matter

15. The appellant has made mention of other examples of outbuildings that have been granted permission recently on appeal. However, these are not in the vicinity of Boone Street, and the circumstances would appear to be quite different in terms of siting within the plot and relationship with the dwelling.

J D Westbrook

INSPECTOR