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## Appeal Decision

Site visit made on 1 July 2019

**by Steven Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS**

**an Inspector appointed by the Secretary of State.**

**Decision date: 8 July 2019**

**Appeal Ref: APP/A5840/D/19/3228768**

**2, Radnor Road, London SE15 6UR**

- 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 Jaqueline Merville against the decision of the Southwark Council.
  - The application, Ref 19/AP/0108 dated 16 January 2019, was refused by notice dated 27 March 2019.
  - The development proposed is proposed residential annex to the rear garden of 2, Radnor Road, London SE15 6UR, including the demolition of the existing outbuilding.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. Since the submission of the appeal, an updated version of the National Planning Policy Framework (February 2019) (the Framework) has been published by the Government. This is a material consideration in planning decisions. In relation to the main issues in this appeal, Government policy has not materially changed, and it was not therefore necessary to invite any further comments from the different parties involved.

### Main issues

3. The main issues are (i) the suitability of the proposed size of the annex for future occupiers and (ii) the personal needs of family members.

### Reasons

#### *Suitability of the proposed annex*

4. The appeal relates to a two storey terrace property in a predominantly residential area: it has a hard standing to the front and a private amenity space to the rear where there is an existing, detached outbuilding used as a residential annex. The development proposed is the replacement of the wooden, detached residential annex by an annex of a slightly larger floor area: the proposed new annex would have a flat roof. It would not include a kitchen. The replacement building would be sited in approximately the same position in the rear garden of the main dwellinghouse as is the existing annex.

5. There is a lawful development certificate relating to the existing annex and, as its continued use provides a fall-back position, I find that the principle of a residential annex is established.
6. In 2015, the Government introduced national described space standards. The Council's Technical Update to the Residential Design Standards Supplementary Planning Document (2011) (SPD) states that it applies the mandatory space standards to all residential development.
7. The Local Planning Authority (LPA) considers that the appropriate standard is that for a new dwelling. However, the proposed development is not for a new dwelling but for an annex incidental to the enjoyment of the main dwelling. Nevertheless, the mandatory space standards are a material consideration. The gross internal area of the proposed annex would be 32 square metres and the minimum requirement, if this were to be a new dwelling, would be 50 square metres for a one bedroom unit with a separate sleeping and living area. The space standards also indicate that a bed space should have a minimum 7.5 square metres whereas, in the case of the proposed development, it would be 7 square metres. Furthermore, the minimum space standard for an eating area and lounge is 16 square metres, whereas in this case, the available space would be about 14 square metres.
8. I therefore find that the proposed spaces would be too small in relation to the SPD.
9. While the existing residential annex provides a fall-back position, this does not mean that any replacement should not have to meet the minimum space standards. I have no evidence before me to indicate that it would not be physically possible to meet them.
10. For this reason, I conclude that the proposed development would be contrary to the Southwark Plan (2007) (SP) 'saved' policy 3.12, which requires high quality urban design and to 'saved' policy 4.12, which requires schemes to achieve good quality living conditions. In addition, it would be contrary to the Council's SPD with regard to the achievement of specified minimum space standards.
11. It is not certain that the proposed development would be contrary to the Mayor of London's Supplementary Planning Guidance (2016) (MSPG), which advises that its space standards are optional in that it depends on which have been incorporated into development plans: moreover, these relate to new dwellings, whereas the proposed annex is not a new, separate dwelling. However, the matter is resolved as the LPA's SPD states that the space standards apply to all residential development.
12. I conclude that the proposed development would not be contrary to the Council's Core Strategy (2011) policy 12 as this relates to the conservation and enhancement of heritage assets which does not apply in this case.

13. Furthermore, I conclude that the proposed development is not contrary to chapter 8 of the Framework, relating to the promotion of health and safe communities, other than with regard to the achievement of minimum space standards: it is more concerned with social interaction and healthy lifestyles. Nor do I conclude that the proposed development would be contrary to chapter 11 of the Framework, which is concerned with making effective use of land. In the case of the proposed development, the principle of the development is accepted. I do not consider that it would be contrary to chapter 12 of the Framework, achieving well designed spaces, as this is more concerned with character and appearance rather than with space standards.
14. I conclude that the proposed development would not be contrary to the London Plan (2016) (LP) policy 3.4: this is concerned with optimising housing output with a range of housing densities. However, I do conclude that it would be contrary to the LP policy 3.5, which requires housing developments to be of the highest quality, internally and externally, within its external environment.

#### *Personal Circumstances*

15. I have taken into account the Human Rights Act 1998 (HRA) Protocol 1, Article 8, which is concerned with the right for respect for private and family life and the specific health conditions of family members.
16. There is a requirement for sleeping accommodation and washing facilities to be separate from the main house and also a calm and controlled environment. I have taken into account the support from NHS doctors, as referred to by the appellant, and also that the existing annex is not suitably insulated, and that energy bills are high, as are carbon dioxide emissions.
17. However, the existing annex does provide sleeping accommodation, washing facilities and a calm environment, and while it may not be ideal in terms of space standards, the proposed replacement annex does not meet the necessary space standards either. I therefore conclude that the human rights of the family under Protocol 1, Article 8 of the HRA would not be breached if the appeal were to be dismissed as there is already available accommodation and because the proposed replacement annex would not meet the necessary space standards.

#### **Other matters**

18. The LPA considers that the proposed development would not be incidental to the use of the main dwelling house and also that it could not support the creation of an undersized residential unit which could be let or sold as a separate dwelling. The LPA considers that, while the proposed development contains no kitchen it would be possible to incorporate such a facility so as to make a separate dwelling.
19. However, I have dealt with the appeal on the basis that the proposed development would be for a residential annex. Any use as a separate dwelling

would necessitate a separate planning application which would be determined on its merits.

20. I do not consider that the proposed development would cause substantial harm to the privacy of neighbouring occupiers through overlooking from the proposed wrap-around window facing No.4 Radnor Road. Habitable rooms are not directly opposite each other and the proposed development would be close to the boundary fence which would provide some limited privacy. Moreover, even though they are smaller than what is proposed, there are already windows in the existing annex facing the general direction of No.4 Radnor Road.
21. The appellant has referred to a nearby planning approval at No.22 Bull in Bush Road for the erection of an outbuilding in order to create a self-contained office which would be larger than the appeal proposal. If it were no longer to be used as an office, the LPA considers that it could revert to an ancillary building for the residential dwelling. However, I have determined the appeal on its own merits.
22. The appellant has submitted a sun path study which shows that there would be an insignificant amount of overshadowing in the rear gardens of No's 12 and 14 Bird in Bush Road. This matter has limited weight in favour of the appeal.
23. However, the above matters, either individually or collectively, do not outweigh or change my conclusion on the main issue concerning space standards.

### **Conclusion**

24. For the above reasons, and taking into account all other issues raised, I conclude that the appeal should be dismissed.

*Steven Hartley*

INSPECTOR