



Appeal Decision

Site visit made on 11 February 2020

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February 2020

Appeal Ref: APP/Y5420/D/19/3244028

52 Parkhurst Road, Tottenham, London N17 9RD

- 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 Victoria Ozoemelum against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2019/2567, dated 3 September 2019, was refused by notice dated 4 November 2019.
 - The development proposed is rear granny annex.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant contends that the development applied for 'could be built under permitted development rights'. However, this is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. If official confirmation is required then it is open to the appellant to apply to have the matter determined under sections 191 or 192 of the Act. Any such application would be unaffected by my determination of this appeal. I return to this in other matters below.
3. In correspondence following the decision the Council appear to have considered the proposal as a separate dwelling¹. In this case the appellant applied for a granny annex and the accompanying plans show a living area and small shower room/WC within a single storey building. No kitchen or cooking facilities are shown and the appellant states these will be 'central in the main house'. It would not therefore have the necessary facilities to make it capable of being independently occupied as a separate dwelling. Even if it had, or these were added at a later date, the overriding consideration established in case law² is that even if the accommodation provided facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling, it is the actual use that is determinative.
4. The appellant is clear that it would be used as part of the main house by an elderly relative or nanny for childcare purposes. In the absence of any evidence to the contrary from the Council an appellant is entitled to have the proposal determined as applied for and I have determined the appeal on the basis it is not for a separate dwelling.

¹ Haringey email correspondence dated 20 November 2019 and 4 December 2019.

² Uttlesford DC v SSE & White [1992].

Main Issues

5. Consequently, the main issues are the effect of the proposal on the character and appearance of the area and the effect on the living conditions of neighbouring occupiers, with particular regard to outlook.

Reasons

Character and appearance

6. The outbuilding would be located in the modest rear garden of No. 52 Parkhurst Road, a semi-detached property in a street of similar and other properties. Some soft landscaping and small trees exist within the similar sized rear gardens of neighbouring properties which contained some small timber outbuildings and sheds of the type typically found within such a suburban residential garden environment. None of those outbuildings extended notably above the fence line and were of a modest size and scale.
7. In contrast the proposal be of a substantial width, depth and height very close to the side and rear boundaries. In combination with an existing rear extension built form would cover a considerable part of the rear garden space. It would also be substantially taller and bulkier than any existing outbuildings and the combination of its height, scale and external appearance would result in an overly prominent and somewhat bunker like structure. It would sit in stark visual contrast to the more traditional garden buildings and structures within adjoining gardens and would be an incongruous feature in this rear garden setting.
8. For these reasons, the proposal would cause harm to the character and appearance of the appeal site and area. It would therefore conflict with Policy SP11 of The Haringey Local Plan: Strategic Policies 2017 ('HLP'), Policies DM1, DM7 and DM12 of the Haringey Development Management Development Plan Document 2017 ('DMD') and Policies 7.4 and 7.6 of the London Plan 2016 ('LP'). Amongst other things and when taken as a whole, these require a high quality of design and that such development proposals relate positively to their locality, neighbouring structures, new or old and improve the quality and character of an area.

Living conditions

9. Due to the layout, pattern and density of housing within the area there are a number of 2 storey dwellings which have rear elevations that look directly onto or across the rear garden of the appeal property. Existing views from the properties are of modest rear gardens with proportionate timber sheds and outbuildings. The proposal would extend above the fence line and over such an extent the eye would be unacceptably drawn to it from the rear facing windows and rear gardens of those properties. This would be particularly so in the winter months when levels of greenery in some of the closest gardens would be reduced. To my mind, it would be overly prominent and visually dominant.
10. For these reasons, the proposal would cause harm to the living conditions of the occupiers of neighbouring properties, in terms of outlook. Although the degree of harm would vary for each property, overall, there would be conflict with Policies DM1 and DM12 of the DMD and insofar as they require development proposals to be a high quality of design and ensure the amenity of neighbours is of a high standard.

Other Matters

11. The appellant's comments regarding permitted development indicates an awareness of such rights and there is nothing before me to suggest the property does not benefit from rights for a building within its curtilage, per se. However, rights for such buildings come with restrictions and even if there was a greater than theoretical possibility that such rights would be used³ were I to dismiss the appeal, there is also nothing before me to substantiate what the appellant considers such rights would allow or what such a scheme could ultimately provide. In this particular case and on the evidence before me such a consideration is therefore of little weight.
12. Whilst I note the appellant's exchange of correspondence with the Council and sense some frustration with the administration and determination of the application, including post decision, these are ultimately not matters for me to address as part of this appeal. The Council's reason for refusal refers to Policy SP12 of the DMD but on my reading this relates to conservation of heritage assets and it is not therefore relevant to this appeal.

Conclusion

13. For the reasons given above, the proposal would conflict with the development plan, when read as a whole. Material considerations do not indicate that a decision should be made other than in accordance with the development plan.
14. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR

³ Subject to the requirement that any building is incidental to the enjoyment of the dwellinghouse in accordance with Schedule 2, part 1, Class E of The Town and Country Planning (General Permitted Development Order) 2015 (As amended).