



Appeal Decision

Site visit made on 29 September 2020 by C Brennan BAE (Hons) M.PLAN MIPI

Decision by Andrew Owen BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2020

Appeal Ref: APP/A5270/W/20/3246417

Flat 1 Ground Floor, 120 Saxon Drive, Acton W3 0NT

- 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 Mrs Ifilia Francois against the decision of the Council of the London Borough of Ealing.
- The application Ref 193223FUL, dated 2 July 2019, was refused by notice dated 25 October 2019.
- The proposed development was originally described as "the demolition of current outbuilding and replacement with an extension to the rear of the building".

Decision

1. The appeal is allowed and planning permission is granted for a single storey detached garden outbuilding (following demolition of existing outbuilding) at Flat 1 Ground Floor, 120 Saxon Drive, Acton, W3 0NT, in accordance with the terms of the application, Ref 193223FUL, dated 2 July 2019, subject to the following conditions:
 1. The development hereby permitted shall begin not later than three years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with the approved plans: 120SDA, 120SDE-OUT EX and 120SDE-OUT PR4.
 3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall be render finished walls, felt roof and uPVC doors and windows as detailed in the application form.
 4. The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Flat 1 Ground Floor, 120 Saxon Drive, Acton, W3 0NT.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. The description of development set out above in the banner heading above is taken from the application form. However, as the description included within the Council's decision notice is more precise, I have used this description in the decision above.
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4. I note that there has been some discussion between the appellant and the Council regarding the status of the existing outbuilding. Irrespective of the legality of the existing outbuilding, I have provided my recommendation based solely on the planning merits of the proposal before me.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of the occupants of the ground floor property, with regard to outlook and privacy.

Reasons for the Recommendation

6. The application form and appeal form both indicate that the site comprises the ground-floor flat of a two-storey semi-detached property on the western side of Saxon Drive and that this is the appellant's address. I have been provided with a Notice 1 form which appears to be signed by the occupier of the first floor flat, but no other reference is made to this document in the evidence and even this does not demonstrate the appellant does not live on the ground floor. As such although it appears that the Council had determined the proposal on the basis that the proposed outbuilding would be used by the occupants of the first-floor flat, this would seem to be inaccurate. Indeed, I saw from my site visit that the occupants of the first-floor flat cannot access the rear garden as it is behind a tall locked gate, which only provides access to the entrance to the ground floor flat and that garden.
7. As the proposal would only be used by the occupants of the ground-floor flat, there would be no resultant harm to the living conditions of any other resident of No.120 in terms of privacy. Furthermore, while the proposed outbuilding would be sited close to the rear-facing patio doors of the ground-floor flat, occupants would still have unobstructed views from their living area to the end of the rear garden through a rear-facing window. I therefore find that the effect of the proposal on outlook would be acceptable.
8. For the above reasons, I conclude that the proposed development would not cause unacceptable harm to the living conditions of the occupants of the ground floor flat with particular regard to outlook or privacy. The proposal would therefore comply with Policy 7.6 of the London Plan 2016 (the London Plan) and Policy 7B of the Ealing Development Management Development Plan Document 2013 (the DMDPD) which, amongst other things, state that development should not cause unacceptable harm to the amenity of surrounding land and residential buildings and must achieve a high standard of amenity for users and adjacent users.
9. The proposal would also comply with section 12 of the National Planning Policy Framework 2019 (the NPPF), which states that development should function well and add to the overall quality of the area.
10. However, as Policy 7.4 of the London Plan, Policy 7.4 of the DMDPD and Policies D1 and D2 of the Draft London Plan 2018 relate to matters of design rather than the impact of development on living conditions, I do not consider these policies to be relevant to this main issue. Furthermore, I do not consider Policy 7A of the DMDPD to be relevant as this policy relates specifically to the impact of emissions and makes no reference to relevant matters such as privacy or outlook.

Other matters

11. The Council state that the proposed outbuilding could be used as a separate dwelling. However, they have also suggested a condition to ensure that the proposal could only be used by the occupants of the ground-floor flat in an ancillary capacity. As such a condition would satisfy the tests set out in the NPPF and the Planning Practice Guidance, the proposal would be acceptable with such a condition imposed.

Conditions

12. The conditions which are imposed are those which have been suggested by the Council, but with some variation in the interest of clarity and precision having regard to the advice on imposing conditions in the NPPF and Planning Practice Guidance.
13. In addition to the standard timescale condition, I have imposed a condition requiring that the scheme be built in accordance with the approved plans for the avoidance of doubt. In order to ensure that the proposal respects the character and appearance of its immediate surroundings, I have found it necessary to impose a condition requiring that the proposal should be built with the materials detailed in the application form.
14. In order to ensure that the proposal will not cause harm to the living conditions of existing and neighbouring occupants, I have also attached a condition requiring that the outbuilding be used for uses incidental to the enjoyment of the host dwelling only.

Conclusion and Recommendation

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

C Brennan

APPEAL PLANNING OFFICER

Inspector's Decision

16. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Andrew Owen

INSPECTOR