



Appeal Decision

Site visit made on 12 January 2021

by Sarah Colebourne MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th March 2021

Appeal Ref: APP/W5780/D/20/3259593

64 Dudley Road, Ilford, London, IG1 1ET

- 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 Mohammed Choudhury against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 1318/20, dated 3 May 2020, was refused by notice dated 13 July 2020.
 - The development proposed is described as 'an ancillary outbuilding to be used by the family and is not self-contained, ie no cooking facilities'.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The outbuilding which is the subject of this appeal has already been constructed. I have noted that the Council opened an enforcement case in March 2020 regarding the unauthorised use of the building as it contained a bed.
3. The appellant's statement in paragraph 5.7 confirms that the existing building is considered as a granny annexe but the appellant considers that the use of the building is permitted development. Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 sets out the rules on permitted development for buildings etc within the curtilage of a house. Buildings under Class E should be built for purposes incidental to the enjoyment of the house. Paragraph E.4 of Class E indicates that purposes incidental to the enjoyment of the house includes the personal enjoyment of the occupants of the house.
4. The building contains three rooms which I saw at my visit comprise a kitchen, a shower room and another room which the plans show as some 3.9m by 3.3m. Whilst I noted at my visit that the third room was being used for domestic storage, the appellant's photographs indicate that it has previously contained living room furniture and given its size it could potentially be used as a bed/sitting room. Those photographs also indicate that the kitchen contains a sink, a gas boiler, a washing machine or tumble dryer and a microwave. It is clear then that the building could be used as self-contained accommodation.
5. However, even if it is not fully self-contained the government's 'Permitted development rights for householders Technical Guidance' makes clear that 'A purpose incidental to a house would not, however, cover normal residential

uses, such as....the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen.' As such, the development does not amount to an incidental use. It does not meet the requirements of the Town and Country Planning (General Permitted Development) (England) Order 2015 and is not permitted development, contrary to the appellant's assertion. These conclusions are for the purposes of the current appeal only and do not prejudice any future application for a lawful development certificate or any enforcement proceedings. I have therefore assessed the proposal on the basis of a change of use to ancillary accommodation.

Main issues

6. The main issues in this appeal are the effect of the proposed development on:
- the character of the area;
 - the living conditions of the future occupiers of the proposed dwelling and those of the neighbouring residents.

Reasons

Character

7. The development plan includes policy LP26 in the Redbridge Local Plan (2018) which seeks to ensure that developments respect the local character of the area. The appeal site comprises an end terrace dwelling in a residential area of mainly terraced dwellings. The outbuilding which is the subject of this appeal is sited at the end of the rear garden. It has been constructed of brick with a tiled roof with a small rooflight. It has a dark coloured glazed door and window which face across the garden to the main house. In terms of its appearance, the building is not unattractive and I noted at my visit many similar outbuildings in other rear gardens.
8. The Council has not objected to the appearance of the building but to its use. I noted that at the time of my visit the rear garden and surrounding gardens were quiet and peaceful. The proposed use would change the character of the rear garden by introducing an increased amount of activity into a small area. The comings and goings of people and the use of domestic appliances and kitchen and shower room facilities would create a level of noise and activity that would be out of character with the quieter use of a rear garden. As such, I conclude that the proposal would significantly harm the character of the area, contrary to policy LP26.

Living conditions

9. Policy LP26 also seeks to ensure that developments provide high standards of accommodation for housing in terms of, amongst other things, its quality, external private and communal amenity space, appropriate facilities for refuse and recycling and incorporate sustainable design.
10. Whether that policy is relevant depends on whether the proposal would form ancillary accommodation or a separate dwelling which must be assessed on the basis of the functional and physical relationship between the outbuilding and the main dwelling.
11. The appellant intends the outbuilding to be used by his own family. That would contribute to a functional relationship between the outbuilding and the main

dwelling and could be secured by a condition restricting the use to ancillary accommodation. However, given the size, layout and facilities of the building, there is clearly much potential for self-contained accommodation and a separate functional relationship from the main dwelling.

12. The outbuilding has a close physical relationship to the main dwelling and the appellant says that it would be accessed through the main house. However, it can be easily accessed through a wide side gate at the property and that provides the potential for a separate physical relationship from the main dwelling.
13. Given the potential for a separate functional and physical relationship from the main dwelling, policy LP26 is therefore relevant. The proposal does not include any private outside amenity space, would have an outlook towards the main dwelling in close proximity and does not include refuse/recycling provision or cycle storage. This would create an unacceptable standard of accommodation which would cause significant harm to the living conditions of the future occupiers. The lack of refuse/recycling facilities would cause significant harm to the living conditions of the adjoining neighbouring occupiers. I have noted that neighbouring occupiers are in support of the proposal but those occupiers could change at some point in the future.
14. I conclude then that the proposal would significantly harm the living conditions of both the future and the neighbouring occupiers, contrary to policy LP26.

Conclusion

15. The appellant has drawn to my attention to a number of similar outbuildings and uses in the area that have been granted planning permission or certificates of lawfulness. However, these cases are a matter of fact and degree and without further details I am unable to make direct comparisons with this case that would alter my findings. Whilst the proposed development could provide additional accommodation for the family, this does not outweigh the significant harm identified above. The proposed development would be contrary to the development plan and there are no material considerations that would lead me to a different conclusion. The appeal is dismissed.

Sarah Colebourne

Inspector