The Planning Inspectorate

Appeal Decision

Site visit made on 12 August 2021

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2021

Appeal Ref: APP/B5480/D/21/3275117
74 Chelmsford Drive, Upminster, RM14 2PD

- 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 Satnam Kaur against the decision of London Borough of Havering.
- The application Ref P0058.21, dated 15 January 2021, was refused by notice dated 23 March 2021.
- The application sought planning permission for retrospective application to retain outbuilding containing bedroom with en-suite for use ancillary to dwellinghouse.

Decision

1. The appeal is allowed and planning permission is granted for retrospective application to retain outbuilding containing bedroom with en-suite for use ancillary to dwellinghouse at 74 Chelmsford Drive, Upminster, RM14 2PD in accordance with the terms of the application, Ref P0058.21, dated 15 January 2021, and the plans submitted with it, and subject to the conditions listed below.

    1) The building hereby permitted shall be as shown on drawing ref. KAU.OCT.20A (prepared by Frontier Architecture Ltd).

    2) The building hereby permitted shall not be used or occupied at any time other than for purposes incidental to the residential use of the dwelling known as 74 Chelmsford Drive, Upminster.

    3) The flat roof area of the building hereby permitted, as shown on approved drawing ref. KAU.OCT.20A (prepared by Frontier Architecture Ltd), shall not be used as a balcony, roof garden or similar amenity area, nor shall the roof area be used for storage, without the grant of further permission from the Local Planning Authority.

Procedural Matters

2. The description of development on the decision notice is slightly different to that on the application form. I have adopted the former as it more accurately describes the appeal proposal.

3. The Council's Delegated Report raised a query in relation to the accuracy of the submitted plans, specifically where they show the gap between the appeal proposal and boundary to 72 Chelmsford Drive. As the proposal has been built, this was a matter I was able to observe on my site visit and I am satisfied that

any errors in this respect have not affected my ability to determine this appeal on the evidence available.

4. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (July 2021) (Framework). However, the policies that are relevant to this appeal have not changed and there was no need, therefore, to invite the parties to make further submissions in response to the revised Framework.

Main Issues

5. The main issues are: (a) the effect on the character and appearance of the rear garden environment and surrounding area; and (b) the effect on the living conditions of the neighbouring occupiers at 76 Chelmsford Drive.

Reasons

Character and appearance

6. The appeal proposal involves a separate building that has been constructed within the rear garden to the host property, No.74 Chelmsford Drive (No.74). It includes a bedroom and en-suite bathroom, which the Appellant states is currently occupied by the owner's son, daughter in law and grandchild.

7. The development that is before me and the subject of this appeal is, therefore, for the retention of the existing outbuilding (which I note the parties have sometimes referred to as an annex). There is no proposal before me for a separate dwelling and I have, therefore, determined the appeal on this basis.

8. The appeal building falls within the curtilage of the main dwelling and within the same ownership, and also shares the facilities, access and services of the main dwelling. There is, therefore, a clear connection between the appeal proposal and the main dwelling, and the application form confirms that retrospective permission is being sought for the retention of a building whose use would be ancillary to the residential use of the main dwelling.

9. The appeal building has an irregular shape, which, as I observed on site, is due to its siting in the rear corner of the appeal site. In this location, the appeal building abuts the side boundary to 72 Chelmsford Drive (No.72). Even so, due to the difference in levels between No.72 and the appeal site, existing boundary treatment, landscaping and the presence of other buildings, views of the appeal proposal are largely screened from No.72. Whilst the appeal proposal is more visible from the rear garden and first floor windows of 76 Chelmsford Drive (No.76), in all these views, the appearance is that of a single storey outbuilding, commonly found in such locations.

10. The impact of the appeal proposal is lessened by its red brick construction and low flat roof design, which measures approximately 2.6 metres to the ridge. In view of this and within the context of the rear extension, lean too and other structures within the rear garden to the host property, the depth, mass and bulk of the appeal proposal does not appear, in my judgement, to be overly dominant or visually intrusive.

11. Whilst I accept that the appeal proposal has reduced the extent of the rear garden and is sited approximately 4 metres from the rear extension, as I observed on site, there still remains a large usable and functional side garden

to the host property, as well as a further area of amenity space inbetween the rear extension and appeal building.

12. In relation to the surrounding area, again, the difference in site levels, exiting boundary treatment, landscaping/mature trees and the presence of other outbuildings, effectively screens the appeal building from public vantage points, with only glimpsed views possible from the footway on Chelmsford Drive.

13. Given the above, on balance, I am satisfied that the appeal proposal is not visually prominent or intrusive, to either the host property or to the surrounding area. Whilst it does result in change, that change is not, in my view, so material as to result in significant harm to the character and appearance of the host property or the surrounding area.

14. The Council's Delegated Report contends that the normal requirement for outbuildings is that they are set 1 metre from the common boundary. However, I could not find any specific policy reference, guidance or other evidence to support this statement. Whilst paragraph 9.5 of the Residential Extensions & Alterations Supplementary Planning Document (March 2011) (SPD) states that the Council will, when assessing proposals for outbuildings, have regard to, amongst other factors, the proximity of buildings to boundaries, it does not require any specific level of separation. Whilst I accept that the appeal proposal abuts the common boundary of both No.72 and No.76, this factor alone is not sufficient, therefore, to justify the refusal of planning permission.

15. The SPD does require outbuildings to be subordinate to the main dwelling, and similar advice is provided for annexes, which the SPD states should be proportionate to the main dwelling. Whilst the appeal proposal must, of course, be viewed in the context of the rear extension, lean too and other structures within the rear garden to the host property, overall, I am satisfied that the appeal proposal is subordinate and proportionate.

16. Accordingly, I find that the appeal proposal does not result in significant harm to the character and appearance of the area, and would not represent an incongruous feature within the rear garden environment to the host property. The appeal proposal would not, therefore, be at variance with policy DC61 of the Havering Core Strategy & Development Control Policies Development Plan Document (2008) (HCS) or the provisions of the SPD.

Living conditions – neighbouring occupiers

17. As I found above, the appeal proposal is effectively screened from No.72 by a combination of existing boundary treatment, landscaping/mature trees, other outbuildings and the difference in levels, to an extent that it does not, in my view, materially harm the living conditions of the occupiers of that property.

18. The appeal proposal is, however, visible from the garden to No.76. This is due to the fact that the side (southern) elevation of the appeal building forms the physical boundary between the two properties. It is also due to the fact that the garden to No.76 sits at a lower level to the appeal site, the result of which is that the side elevation to the appeal building, when viewed from No.76, appears higher than 2.6 metres. Even so, having viewed this relationship on site, I am not convinced that the impact on the living conditions of No.76 is so significant as to justify the refusal of planning permission.

19. Whilst the appeal proposal does increase the sense of enclosure to the rear garden of No.76, the level of harm is not, in my judgement, significant. In reaching that finding, I have attached weight to the fact that the impact on No.76 is to the rearmost part of its garden, and that a large part of the garden, including that immediately to the rear of the main house, is not affected. Similarly, that any views from the ground floor windows of No.76 are not materially affected given the distance that separates the latter from the side elevation to the appeal building. There is also some existing landscaping within the garden of No.76 that assists in softening, albeit to a small extent, the visual impact of the appeal proposal on this boundary.

20. Accordingly, I find that the appeal proposal would not result in any significant harm to the living conditions of neighbouring occupiers and that the appeal proposal would accord, in this respect, with the requirements of policy DC61 of the HCS.

Conditions

21. The Council has suggested various conditions which I have considered against the advice in the revised Framework and the Planning Practice Guidance chapter on the use of planning conditions.

22. I am satisfied that a condition which prevents the appeal building being used or occupied as an independent dwelling, is necessary and enforceable. I have, however, modified the wording to reflect that in section 55(2)(d) of the Town and Country Planning Act 1990 and Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Any further control beyond this is not, in my view, necessary or reasonable.

23. I also consider that a condition which prevents the flat roof of the appeal building being used as a balcony or amenity area, is reasonable and necessary to protect the living conditions of neighbouring occupiers. I have added to this condition a restriction on the roof being used for storage, again in the interests of neighbours living conditions and the visual amenities of the area.

24. I also consider that a condition which refers to the approved plan is necessary to provide confirmation and clarity of the works that the permission relates to.

Conclusion

25. For the reasons given above and having taken all the matters raised into account, I conclude that the appeal should be allowed.

G Roberts

INSPECTOR