



Appeal Decision

Site Visit made on 28 September 2021

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2021

Appeal Ref: APP/A5270/W/21/3266368

44 Villiers Road, Southall, UB1 3BS

- 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 Heer against the decision of the Council of the London Borough of Ealing.
 - The application Ref 201667FUL, dated 27 April 2020, was refused by notice dated 30 September 2020.
 - The development proposed is described as continued use of outbuilding as self-contained residential dwelling (1 bedroom).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On my visit I saw the interior of the outbuilding laid out in accordance with the appeal drawings although the dining/living room contained bedroom furniture. My assessment is based on the submitted plans.
3. Since the Council's decision, the London Plan 2021 (LP) has been adopted. This now forms part of the development plan for the site and its policies replace those from the London Plan 2016 referred to in the Council's refusal reasons. The Council has provided reference to LP policies it considers are relevant to this appeal and the appellant has been invited to respond. As such, both main parties have had opportunity to make representations on the LP.

Main Issues

4. The main issues are (i) whether the development provides adequate living conditions for occupants in terms of the amount of indoor space, outlook, privacy and noise, (ii) the effect on the living conditions of nearby residents in terms of privacy, noise and lighting, and (iii) the effect on the character and appearance of the area.

Reasons

Living conditions of occupants of the development

5. According to the plans, the development provides a single bedroom dwelling with a shower room. LP policy D6 requires such residences to provide a minimum gross internal floor area of 37 m². The appellant does not dispute the Council's claim that the unit has 31.6 m² of indoor space. Therefore, it provides a shortfall when assessed against the LP minimum standards, even if it is occupied by a single person.

6. Moreover, LP policy D6 generally resists the provision of single aspect dwellings. The windows to the bedroom and dining/living room face the rear garden of the appeal property and so they provide a view of the immediate outside. However, the rear window to the kitchen faces directly towards a wall at close proximity with no meaningful sight of the outdoors. As such, the dwelling in effect provides only a single aspect with a limited outlook.
7. The plans indicate the occupants of the development would share the rear garden with the residents of 44 Villiers Road, which is sub-divided into flats. It is suggested that a fence could be erected to enclose a part of the garden to exclusively serve the appeal development. However, without details which indicate otherwise, it seems unlikely that such fencing would prevent overlooking from the nearby upper floor windows in the main house towards the front windows of the dwelling and any separate garden that may be provided. The nearby park could be used by residents but it is a public space and so it does not fully compensate for the lack of a private garden.
8. The adjoining vehicle repair garage has the potential to generate noise, although from my visit it seems the site is in a generally quiet environment. There is no evidence that any occupiers of residences that adjoin the garage have experienced unacceptable noise levels. Consequently, it seems unlikely that occupants of the appeal scheme would be disturbed by noisy commercial activities. Acceptability in these regards does not address or override the inadequacies in terms of the substandard level of internal floorspace, the limited outlook and the lack of privacy.
9. For these reasons, I conclude the development does not provide adequate living conditions for occupants. In these regards, it would not accord with LP policies D3 and D6 as well as policies 3.5 and 7B of the Ealing Development Management Development Plan Document 2013 (EDMDP). These all aim, amongst other things, to ensure development provides a high standard of accommodation for users. The Council's refusal reasons refer to EDMDP policy 7D but this includes no provisions relevant to this issue.

Living conditions of occupants of neighbouring residences.

10. The access to the appeal development is a narrow passageway to the side of the main house. Ground floor, clear glazed windows that serve the flats in the house are in the flank wall and are positioned so that people using the passageway are able to easily look in. Also, people leaving the development are able to see into the ground floor window in the rear of the main house. No objections have been raised by occupiers of the flats but I consider the development causes a loss of privacy due to the significant potential for occupants of the development to see into the main house windows.
11. As a residential use, it is unlikely the development generates significant or unusual noises. Also, lighting associated with the unit is unlikely to cause nuisance to nearby residents. However, acceptability in these regards does not address the aforementioned privacy concerns.
12. For these reasons, I conclude the development harms the living conditions of nearby residents in terms of privacy. In these regards, it is contrary to LP policy D3 and EDMDP policies 7A and 7B. These aim, amongst other things, to ensure a high standard of amenity for users of adjacent properties.

Character and appearance

13. The outbuilding is to the rear of the main house and so it is not seen from the street. Also, it is only partially seen over boundary treatments from the adjoining properties. As such, its use as a separate dwelling is not readily apparent from outside the extent of the appeal site. Moreover, the unit is generally compatible with the predominant residential nature of the area.
14. Most nearby houses are 2 storeys high and front onto the street. As a single storey unit to the rear of another building, the development is at odds with this pattern. However, it utilises an existing building which is mostly concealed from views. As such, the dwelling has no marked effect on the area's visual qualities.
15. Therefore, I conclude the development does not cause harm to the character and appearance of the area. In these regards, it accords with LP policies D3 and D4 as well as EDMDP policy 7.4. Amongst other things, these look to ensure development responds to the character of its surroundings. EDMDP policies 7B and 7D are referred to in the Council's refusal reasons but contain no provisions relevant to this specific issue.

Other Considerations

16. The development provides residential accommodation in an urban area with good accessibility to services. However, these benefits are modest as the scheme consists of only a single unit. As such, they do not outweigh the harm identified in respect of the first 2 main issues.
17. No information has been provided on the occupancy of the dwelling but on my visit I saw signs of it being inhabited. Dismissing this appeal may put at risk the occupation of the unit by its residents. This would represent an interference with their rights under Article 8 of the European Convention on Human Rights (right to respect for private and family life) as incorporated by the Human Rights Act 1998. However, these rights are not unfettered and can be interfered with by a public authority in accordance with the law in a number of circumstances.
18. In this case, there is a legitimate and established planning policy aim to ensure users of property are provided with a high standard of amenity. Such a policy is necessary for the protection of health. No case has been made that the personal circumstances of the occupants requires them to remain in the unit and so I attach greater weight to the public interest. Dismissal of the appeal is proportionate and it would not result in a violation of the residents' human rights.

Conclusion

19. While I have found no harm on the character and appearance of the area, the detriment caused in respect of the first 2 main issues means the appeal scheme does not accord with development plan policies when read as a whole. Its benefits and other factors do not justify making a decision contrary to the development plan. As such, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR