
Appeal Decision

Site visit made on 31 August 2021

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2021

Appeal Ref: APP/W5780/W/20/3256759

4 Grove End, South Woodford, London E18 2LE

- 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 John Gulston of Stanoak (Grove End) Ltd against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 4604/19, dated 2 December 2019, was refused by notice dated 4 March 2020.
 - The development proposed is conversion of the outbuilding to provide additional HMO accommodation.
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Decision

1. The appeal is allowed, and planning permission is granted for conversion of the outbuilding to provide additional HMO accommodation at 4 Grove End, South Woodford, London E18 2LE in accordance with the terms of the application Ref. 4604/19, dated 2 December 2019, subject to the attached Schedule of Conditions.

Procedural Matters

2. The appellants have also submitted an appeal against an enforcement notice which the Council has served in respect of the alleged conversion of the outbuilding, which is the subject of this appeal, into habitable accommodation and integration of the accommodation into the House in Multiple Occupation (HMO) at No. 4 Grove End (Appeal Ref: APP/W5780/C/20/3256306). That appeal and the associated application for costs are the subject of separate decisions.
3. On the appeal form the appellants indicated that the description of development changed from that stated on the application form and which is set out in the banner above. The revised description which is contained in the Council's decision notice is as follows:

'Change of use of detached rear outbuilding to provide additional HMO (sui generis) accommodation for two people. Alterations to fenestration.'

The appellants have produced a note stating that there is no record of the alternative description of development being agreed. On the basis that neither of the main parties has provided written confirmation that a revised description of development has been agreed, I have determined the appeal on the basis of the description of development given on the application form which is set out in the banner heading.

4. The Council also amended the site address from that used by the appellants on the application form, and which is in the banner above. The location of development given on the decision notice is as follows:

‘Development site at workshop rear of and 4 Grove End, South Woodford, London’

5. The addition of the phrase ‘development site’ in the site address by the Council is unnecessary and does not establish any status of the land in planning terms as a ‘development site’. For that reason, I shall determine the appeal on the basis of the site address as it was given in the application form and which is in the banner heading.
6. The planning application was for the conversion of the outbuilding to provide additional HMO accommodation. In the event that this appeal is allowed, the lawfulness of the site as a whole operating on the basis of use as a Class C4 HMO by not more than six residents or use as an HMO with seven or more residents will be a matter to be resolved by the parties. Given the description of the proposal, it is not a matter which is before me in my determination of this appeal.
7. A revised plan has been submitted by the appellant (Plan No. FVS_201.1 ‘J’). This shows an additional window serving Room 1 which is on the first floor of elevation A. The Council has confirmed that it has received all of the documents submitted by the appellants. On this basis the Council has had the opportunity to comment on the revised plan, therefore neither party would be prejudiced if I consider it as part of the determination of the appeal.
8. Since the appeal was lodged The London Plan (2021) (the new London Plan) has been published by the Mayor of London and it is now part of the development plan, along with the London Borough of Redbridge Local Plan 2015-2030 (March 2018) (the Local Plan).
9. Policy 3.5 of the London Plan (2016), which is referenced in the decision notice, is therefore no longer extant. The parties have had an opportunity to comment on the new London Plan.
10. The Council has provided copies of Policies D3, D6 and T5 of the new London Plan and makes reference to these policies in its comments. The appellants have drawn my attention to Policy H9 of the new London Plan which is aimed at ensuring the best use of (housing) stock. They have also responded to the comments made by the Council.
11. I am satisfied that both parties have had the opportunity to consider the relevance of the new London Plan to the appeal. Therefore, neither party would be prejudiced if I take Policies D3, D6, H9 and T5 into account in my decision.
12. On 20 July 2021 the Government published its revised National Planning Policy Framework (the revised Framework). The revised Framework replaces the previous version published in February 2019. Policies within the revised Framework are material considerations which should be taken into account for decision-making from the day of its publication. Consequently, I have given the main parties the opportunity to make comments on the relevance of the revised Framework to the matters which have been raised by the appeals. I have not received any comments from either party.

Main Issue

13. The main issue in this appeal is whether the development would provide acceptable living conditions for future occupants with particular regard to outlook.

Reasons

14. The proposed ground floor layout would provide an outlook via windows on the north and south sides of the building. To the south there would be two windows facing the boundary with No. 2 Grove End. However, the narrowness of the gap between the building and the boundary fence would result in a very constrained outlook in this direction. The appellants have suggested that this could be mitigated by landscaping in this courtyard space. Whilst this could provide a more attractive outlook from the windows in the south side of the building it would not affect the constrained nature of the outlook resulting from the proximity of the boundary fence. The window which is to be installed on the north elevation of the building would, however, provide an alternative to the constrained outlook from the south windows.
15. The Council argues that the window which is to be inserted on the northern side of the building would have a similarly poor outlook to those on the south. However, the extent of the land which is shown in the appellants control to the north of the building is larger than that to the south and whilst overgrown at present it could be landscaped to provide an enhanced outlook in the same way as the southern side. Subject to the imposition and implementation of a landscaping condition the outlook from the windows in the ground floor living and kitchen area towards the north and south would be acceptable.
16. The plans which were submitted with the application show a single window serving Bedroom 1 in the west elevation of the building at first floor level. At this point the building marks the boundary of the site and beyond it is a heavily treed area which does not appear to be in the control of the appellants. The outlook from this window would be severely constrained by the presence of the trees and to this extent it would not provide acceptable living conditions for future occupiers of the accommodation.
17. The appellants have sought to respond to the concerns of the Council, which are aligned with the harm which I have found, through the submission of the revised layout plan, which I have referred to above. This plan shows a second window to serve Bedroom 1 in the north elevation of the building above that which is proposed to serve the ground floor living/kitchen room.
18. Any landscaping between the building on the northern side would have a more limited effect on the outlook from the first floor window and the outlook would be towards the busy North Circular Road. However, given the separation distance from the boundary and the presence of mature trees which obscure views of the road, the outlook from a north facing first floor window would render the living conditions of the occupier of Room 1 acceptable.
19. The occupier of No. 2 Grove End has made representations on the appeal. With respect to her concerns regarding overlooking, the outlook from the proposed additional window at first floor level would not be towards her house, garden or family room and would not result in additional overlooking.

20. Drawing all of these points together the proposed development including that shown on the revised plan which was submitted with the appeal makes acceptable provision for the living conditions of future occupiers of the building. Consequently, the development accords with Policy D3 and D6 of the new London Plan and Policy LP26 of the Local Plan, which require that development provides high standards of accommodation for housing in terms of the quality and arrangement of internal space, including the delivery of appropriate outlook.
21. The development also accords with the revised Framework insofar as it relates to the achievement of well-designed places.
22. Policy H9 of the new London Plan concerns ensuring the best use of housing stock and refers to the role of HMOs in meeting strategic housing needs. It is therefore not of relevance to the main issue which I have identified in this case.

Other Matters

23. The Technical Housing Standard – Nationally Described Space Standards are referenced in the Council's reasons for refusal, but they are not of direct relevance to the main issue in this case which derives from the reason for refusal. Furthermore, there is no substantive evidence before me to demonstrate that the accommodation would not meet the standards. Consequently, this reference does not dissuade me from my view that planning permission should be granted.
24. The occupier of No. 2 Grove End makes comments regarding the history of the building and the way in which it was used by the former occupiers, traffic generation and on-street car parking problems and a lack of maintenance of the property. However, there is limited evidence to substantiate these objections or to demonstrate that the same issues would arise in respect of the proposed development. There these matters do not outweigh the conclusion which I have reached that planning permission should be granted.

Conditions

25. The Council did not request any conditions be attached in the event that the appeal is allowed. However, I have given the parties the opportunity to comment on the conditions which I intend to impose. These include 'pre-commencement' conditions which have been the subject of consultation with the appellants.
26. The Council has confirmed that in its view the suggested conditions are acceptable. The appellants have agreed to the imposition of the pre-commencement conditions but have suggested a variation to the wording of my suggested condition regarding the use of obscured glazing (Condition 6)
27. A time limit condition is necessary and a condition specifying the approved plans is also necessary to provide certainty for all parties particularly as the appellants have submitted a revised plan for consideration as part of the appeal.
28. I have imposed conditions to secure the approval and implementation of a scheme for landscaping and associated maintenance and management of landscaping in order to provide for a satisfactory outlook from the building by the occupiers of the accommodation (Conditions 3 and 4). I have also imposed

a condition to secure cycle parking provision to require that suitable cycle parking spaces are made available to meet the needs of future residents which is supported by Policy T5 of the new London Plan (Condition 5). It is necessary for conditions 3, 4 and 5 to be pre-commencement conditions to ensure that the landscaping and cycle parking can be designed and delivered simultaneously with the conversion of the outbuilding.

29. I have also imposed a condition to secure the retention or provision of obscured glazing in the first floor window on the elevation facing No. 2 Grove End to address the potential for harmful overlooking towards this neighbour's private amenity space (Condition 6).
30. The appellants suggested a revision to the wording of Condition 6 because they say that the obscured glazing has already taken place and that the condition could refer to a photograph which they submitted with their response. I have phrased Condition 6 so that it allows the Council to agree the retention of the existing obscured glazing or confirm use of an alternative. This already addresses the appellants reference to existing obscured glazing.
31. It is not clear which window is shown on the appellants' photograph and the photograph shows one window where two are to be obscure glazed. On this basis reference to the photograph would render the condition imprecise and for that reason I have not varied the wording of condition 6 as requested by the appellants.

Conclusion

32. For the reasons set out above I conclude that the appeal should be allowed, and planning permission granted subject to conditions.

Sarah Dyer

Inspector

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The conversion of the outbuilding to provide additional HMO accommodation hereby permitted shall be carried out in accordance with the following approved plans: FVS_001 Rev F, FVS_201.1 Rev J, FVS_202.1 Rev G and FVS_301.1 Rev A.
- 3) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping of the site, including the space between the building and the boundary with No. 2 Grove End. The scheme shall include indications of all existing trees and shrubs on the land, identify those to be retained and set out measures for their protection throughout the course of development. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied.
- 4) No development shall commence until there has been submitted to and approved in writing by the local planning authority a scheme of maintenance and management of landscaping. The completed landscaping scheme shall thereafter be managed and/or maintained in accordance with the approved scheme.
- 5) Notwithstanding the details shown on approved plans FVS_202.1 Rev G and FVS_301.1 Rev A, no development shall commence until there has been submitted to and approved in writing by the local planning authority a scheme for the provision of cycle parking for use by the occupiers of the building. Cycle parking shall then be provided in accordance with the approved details before any part of the development is first occupied and shall be retained thereafter.
- 6) The conversion of the outbuilding to provide additional HMO accommodation hereby permitted shall not be occupied until the windows at first floor level on elevation C shown on drawing No. FVS_201.1 Rev J have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing to be used or to be retained shall be submitted to and approved in writing by the local planning authority before occupation of the accommodation and once installed the obscured glazing shall be retained thereafter.