



Appeal Decisions

Site visit made on 3 November 2021

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2021

Appeal Ref: APP/A5270/C/20/3250767 (Appeal A) & 3250768 (Appeal B) 18 and 20 Currey Road, Greenford, Middlesex UB6 0BD

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. The appeals are made by Mr Mohammad Abbas Shaikh (Appeal A) and Mrs Shaheen Kausar Shaikh (Appeal B) against an enforcement notice issued by London Borough of Ealing.
 - The notice was issued on 9 March 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of 2 separate self-contained residential dwellings and a canopy.
 - The requirements of the notice are to:
 1. Cease the use of the 2 separate self-contained residential dwellings;
 2. Demolish the 2 separate self-contained residential dwellings;OR
Amend the outbuildings so that they comply with the approved plans and all terms and conditions in line with planning permissions 177969HH at No. 18 and 177970HH at No.20;
 - 3. Remove the canopy extension; and
 - 4. Remove from the land all resultant debris
 - The period for compliance with the requirements is: within three months from the date this notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decisions

1. The appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. Since the appeals were lodged, the London Plan 2021 has been published. The Council has provided me with copies of relevant policies from the 'Intend to Publish' December 2019 version of the London Plan, which are largely the same as the 2021 policies. The appellants have been given the opportunity to comment on the implications of these policies through the appeal process and so I shall take them into account in my decision.
3. During my site visit, it was evident that one of the dwellings were both occupied, one of which was by a child. Although the appellants have not appealed under ground (g), given my powers of correction, I raised with the parties whether the compliance period was sufficient. The Council points out that it has powers to extend the period for compliance should the appellants encounter any difficulty, having given notice to the tenants, and regularly uses this power. The Council also points out that it can be unhelpful to have a long

compliance period if Council assistance is sought with re-housing. The appellants have not requested a longer compliance period, despite the fact that I have specifically raised it. In light of the above, I consider there is no need to extend the compliance period in this case.

Main Issues

4. The main issues are the effect of the appeal scheme on:

- The character and appearance of the area;
- The living conditions of the occupants of the appeal building and the host building, having particular regard to privacy, outlook and noise.
- The living conditions of the occupants of the appeal building, having particular regard to the provision of internal space; and
- The living conditions of the occupants of the appeal building, having particular regard to the provision of private outside amenity space.

Reasons

Character and appearance

5. The appeal building comprises a substantial red brick building which has been constructed towards the end of the rear garden of Nos 18 and 20 Currey Road. A canopy, constructed of wood and plastic sheeting, with wooden gates, has been erected to the rear of the building and was used for drying clothes and the storage of residential paraphernalia at the time of my visit. Access to the building is gained via a shared alleyway between 24 and 26 Currey Road, which serves a number of other properties along the road.
6. Although the building and canopy are located to the rear of the host dwelling, the canopy is readily visible to users of the alleyway. While outbuildings are a common feature of the area, the canopy, appears an incongruous feature which dominates the rear alley.
7. When considering the effect of the character of a development on an area it is important to consider both its appearance and function. Dwellings to the rear of the dominant building line would be at odds with existing development along Currey Road and, as a result, would diminish the character of the area.
8. Thus, the appeal scheme is contrary to policy D3 of the London Plan (2021) which seeks development which responds to the existing character of a place and policy 7.4 of the Ealing Development Management Development Plan Document (DPD) 2013, which seeks development which complements street sequence and building pattern, amongst other things.

Living conditions: Outlook, privacy and noise

9. The appeal building is divided into two separate dwellings, each accessed via the rear alleyway. Fencing has been erected between the building and the rear garden of No 18-20 Currey Road. Due to its height, the fencing interrupts the outlook from the windows at the rear of the building.
10. Although the fencing interrupts views to and from the host dwelling, users of the host dwelling and neighbouring properties are still likely to be able to peer into the windows of the outbuilding from first floor windows. I visited the site

around 2pm and saw that occupants of both properties had chosen to obscure the windows using blinds during my visit, presumably to secure a sense of privacy, necessitating the use of artificial light, resulting in an oppressive living environment.

11. Noise and disturbance generated by the occupants of both the appeal building and the host property would compound this loss of privacy. I consider such overlooking and loss of privacy is harmful to the living conditions of occupants of both the appeal building and No 18-20.
12. The limited outlook from the appeal building and the lack of privacy fails to provide a high standard of amenity for occupants of the appeal building and the host dwelling and is harmful to the living conditions of its occupants, contrary to policy 7B of the DPD, which seeks a high standard of amenity for users and adjacent users and policy 7A of the DPD, which seeks to ensure that development does not erode the amenity of surrounding uses.

Living conditions: Space standards

13. Each unit was laid out with living, sleeping and kitchen facilities in the same room and a separate bathroom. The appellants assert that the internal area of each unit is enough for a studio flat. The Council advise that the internal floor area of each unit is around 45 square metres (sqm), a matter which is not disputed by the appellants. I saw that one of the units was occupied by a couple and the other was occupied by an adult and a child. Both units had a double bed. I have therefore considered them as one-bedroom, two-person dwellings.
14. Policy D6 of the London Plan seeks to ensure that housing development is of high quality design and provides adequately-sized rooms. Table 3.1 of the London Plan sets out the minimum gross internal floor area for a one bedroom, two person dwelling is 50sqm. The internal floor area of each unit is below the minimum requirement set out in the London Plan. Consequently, the appeal scheme fails to provide adequately sized rooms and conflicts with policy D6 of the London Plan.

External amenity space

15. Where development increases demand for open space, policy 7D of the DPD seeks to secure an appropriate contribution towards meeting this additional demand. Table 7D.2 sets out space provision requirements of 5sqm per 1-2 person unit, plus 1sqm for each additional occupant for a house. The guidance states that narrow, unusable areas and leftover strips adjacent to parking areas should not count towards this provision. Ealing's Planning New Garden Space SPD (June 2015) advises that where spaces offer little or no privacy to users, then they will not be considered to count towards the quantitative garden space standards.
16. Although there is space to the front and rear of the buildings, it appears to be shared between the occupants of the two outbuildings. Furthermore, while there is a fence between the outbuildings and the host dwelling, there is a gap in the fencing which allows free access between the different areas.
17. Although it would be possible to secure additional fencing by condition, the front gardens of the units have very limited depth and are overshadowed by the existing fencing. I consider it highly unlikely that occupants of the units

would choose to spend time outside given the limited width of the space and the proximity of the fencing, contrary to policy 7D of the DPD and the SPD, the requirements of which are set out above.

Conclusion

18. While the appeal building is located in a generally residential area and would provide two additional dwellings, I have found that the appeal scheme harms the character and appearance of the area, fails to provide satisfactory living conditions for its occupants and is harmful to the living conditions of occupants the host dwelling.
19. Thus, I conclude that the development conflicts with the development plan as a whole and there are no material considerations which indicate that the decision should be taken otherwise in accordance with the development plan. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice as corrected and refuse to grant planning permission on the deemed application.

M Savage

INSPECTOR