

Appeal Decision

Site visit made on 8 June 2021 by Hannah Ellison BSc (Hons) MSc MRTPI

Decision by R C Kirby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2021

Appeal Ref: APP/A5270/W/21/3269207

4 Essex Road, Acton W3 9JA

- 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 Dominic Pullen against the decision of the Council of the London Borough of Ealing.
 - The application Ref 204740FUL, dated 18 November 2020, was refused by notice dated 22 January 2021.
 - The development proposed is a timber garden out-building.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The Council's decision notice and officer report refers to Policies 3.5, 7.4 and 7.6 of The London Plan 2016 and Policy D2 of The Draft London Plan 2019. However, the Mayor of London published The London Plan in March 2021 (the 'London Plan 2021'), which has replaced the earlier policies in the 2016 and 2019 versions. I must determine this appeal against the most up to date development plan policies.
4. Policy D2 of The Draft London Plan 2019 sought to deliver good design. The London Plan 2021 does not diverge significantly from the previous iteration in this regard, albeit the policy is now retitled Policy D4, as acknowledged by the appellant. Therefore, I consider that no party has been prejudiced or caused any injustice by me proceeding with the appeal in light of this change in policy and it has not been necessary to consult the main parties on this matter.

Main Issues

5. The effect of the proposed development on:
 - (i) The character and appearance of the site and the wider area;
 - (ii) The living conditions of occupiers of the host property, with particular regard to garden provision; and
 - (iii) The living conditions of neighbouring occupiers, with particular regard to outlook.

Reasons for the Recommendation

6. The appeal site is the rear garden of a three storey semi-detached property that has been converted into flats. It is of similar character to the other pairs of properties in the street scene.

Character and appearance

7. The host property has an existing ground floor extension which has reduced the size of the rear garden. The proposed outbuilding would have a significant footprint and would therefore fill a substantial part of the remaining garden. The space between the rear elevation of the host property and the proposal would therefore be considerably restricted and would fail to off-set the outbuilding's total mass. As such, the proposal would appear unduly cramped within the site and would be a disproportionately large and dominant feature in the back garden, rather than a subservient feature to the host property.
8. There would be very limited views of the proposal from the public realm given the narrow space between the host property and neighbouring dwelling and the distance to the proposal from the highway. However, it would be visible from neighbouring properties thus the significant reduction in garden space, which would be at odds with the surrounding gardens, would be readily apparent. As such, this proposal would also harm the character of the wider area.
9. I acknowledge the Council's concerns that the proposal could be used as self-contained living accommodation independent from the host property, which would be contrary to the pattern of development in the locality. However, the appellant has confirmed that the proposed development is to be ancillary space and I have determined the appeal on this basis.
10. Consequently, for the reasons noted above, the proposed development would have a harmful effect on the character and appearance of the appeal site and the wider area. It would therefore conflict with Policies 7.4 and 7D of Ealing's Development Management Development Plan Document (December 2013) (the DMDPD) and Policy D4 of the London Plan 2021 which collectively seek to ensure that developments complement the scale and character of existing built areas and deliver good design. The letter of support from a neighbouring occupier does not alter the conclusion that I have reached in this regard.

Garden provision

11. There would be a narrow area of garden retained between the rear elevation of the extended host property and the outbuilding. Whilst this would accord with the space provision requirements set out in table 7D.2 of Policy 7D of the DMDPD, the footnote to this table states that the amount and form of provision should respond to the physical context, respecting the established local character and pattern of building, and must be fit for purpose and not permanently overshadowed, amongst other things.
12. As noted above, this proposal would fail to reflect the pattern of development in the area due to its substantial size and subsequent reduction in garden space. Furthermore, given the close relationship between the proposal and the host property, the resultant garden would be narrow and significantly enclosed. Occupants of the host property would be restricted as to how they use this space. It would therefore be of a poor quality and would not be fit for purpose.

13. As such, the proposal would not provide adequate living conditions for existing or future occupiers in respect of garden provision. This would be contrary to Policy 7B of the DMDPD which seeks to ensure that new developments achieve a standard of amenity for users. Although there would be no direct conflict with Policy 7D of the Council's DMDPD and the space provision requirements set out in table 7D.2, the supporting text makes clear that private garden space should be fit for purpose, which, it would not be.

Outlook

14. I acknowledge that the proposed outbuilding would be of a significant size and it would be partially visible above the boundary fences from neighbouring properties. Notwithstanding this however, given its single storey scale only a very limited amount would be visible from neighbouring gardens and it would not be so overbearing so as to result in a harmful loss of outlook. Furthermore, it would be positioned a sufficient distance from neighbouring windows so as not to significantly interfere with outlook or create an uncomfortable sense of enclosure.
15. Accordingly, this proposal would not harm the living conditions of neighbouring occupiers with regard to outlook and it therefore does not conflict with Policy 7B the DMDPD which seeks to ensure that new developments achieve a high standard of amenity for adjacent uses.

Conclusion and Recommendation

16. Although I have found that the proposal would not be harmful to the living conditions of neighbouring occupiers, this would not outweigh the harm caused to the character and appearance of the appeal site and the living conditions of occupiers of the host property. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given above, I recommend that the appeal should be dismissed.

H Ellison

APPEAL PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree that the appeal should be dismissed.

RC Kirby

INSPECTOR