



Appeal Decision

Site visit made on 22 March 2023

by Anne Jordan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 April 2023

Appeal Ref: APP/W5780/W/21/3284143

1 Seven Kings Road, ILFORD, IG3 8DQ

- 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 Yosef Leifer against the decision of London Borough of Redbridge.
 - The application Ref 3038/21, dated 9 July 2021, was refused by notice dated 15 September 2021.
 - The development proposed is described as “modification and change of use of an existing outbuilding to provide for a self-contained studio flat.”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The parties do not dispute that policies for the supply of housing are out-of-date and that accordingly the presumption in favour of sustainable development applies in this case.

Main Issues

3. The main issues for the appeal are:
 - Whether the proposal would provide acceptable living conditions for future occupiers of the dwelling;
 - The effects of the proposal on the character and appearance of the area;
 - The effects of the proposal on the integrity of the Epping Forest SAC.

Reasons

Future Living Conditions

4. The appeal property is the rear garden of a house in multiple occupation (HMO), located within a predominantly residential area close to Seven Kings local centre. The rear garden currently has an outbuilding on the site of the proposed studio, which appears to have previously been in use as a domestic garage.
5. The proposal comprises the erection of a studio dwelling on the site of the existing garage. The garage would be the same height as the existing structure, but would be enlarged, to provide an interior space of around 37 sqm. The dwelling would be separated from the existing garden by the erection of a fence within around 1.4 metres from the proposed building.

6. The Council consider that the proposed dwelling would not enjoy acceptable levels of light or outlook, due to the size of the proposed amenity space and the proximity of the existing and proposed boundary treatments. Following the refusal by the Council the appellant provided a sunlight and daylight assessment¹ which demonstrated that the studio would enjoy adequate sunlight and daylight within the unit. The Council have not offered any response to this survey and I see no reason to doubt its veracity.
7. The western façade of the building would be served by 2 doors and a window which would sit close to the boundary fence. Although the outlook from this aspect would be restricted, the studio space would also be served by large patio doors on the northern façade which would face onto the amenity space, and this would provide adequate outlook.
8. The parties do not dispute that the building would provide adequate internal space for a single occupier. The external amenity space would fall below the Council's standards for external amenity space. Although the reason for refusal refers to policy LP29 of the Redbridge Local Plan, this matter is not explicitly stated in the reason for refusal. Nevertheless, I noted on site that although the space provided would be relatively restricted, it would nonetheless provide a usable and private area which would be sufficient for sitting out, drying clothes or storing bikes to meet the daily needs of one person.
9. On the first matter I therefore find that although the proposal would provide less than 50sqm of outdoor amenity space and so would conflict with policy LP29 of the LP and D6 of the London Plan, it would nonetheless provide adequate living conditions for future occupiers of the dwelling. It would also not conflict with policy D3 of the London Plan or the Framework, which seeks to ensure a high standard of amenity for existing and future residents.

Character and Appearance

10. Policy LP7 of the Local Plan seeks to resist the use of outbuildings ordinarily used for ancillary purposes within a dwelling curtilage or garden as separate sleeping and living accommodation. The surrounding area is characterised by large, terraced dwellings, many of which have been converted to flats or in use as HMOs. At the end of terraced spaces in the frontage are evident behind brick walls which allow glimpsed views into the rear gardens. I noted on site that small outbuildings to the rear of properties were an accepted part of the wider street scene. Although the buildings were not highly prominent, being partly screened by high boundary walls or gates, the size and enclosed appearance of the structures marked them out as ancillary domestic structures.
11. Although the proposed building would retain elements of the appearance of the original building, the intensification of the use on site would be apparent in the sub-division of the plot and it would also be clearly evident that the ancillary building no longer had any functional relationship with the main house. In this context, where the building forms a separate residential unit, the restricted size of the plot and the position and utilitarian form of the dwelling would result in a cramped and incongruous form of development that would fail to deliver a high quality of design. Although only partial views would be available of the new dwelling from the public highway, in these available views it would fail to reflect the established character of the area.

¹ Report by Morgan Light Assessors dated January 2022

12. Accordingly, the development would fail to comply with policies LP26 and LP7 of the Redbridge Local Plan and Policy D3 of the London Plan which together seek development which respects the local character of the area and makes a positive architectural and urban design contribution to its context and location and to resist inappropriate backland development. It would also conflict with the Framework, which has similar aims.

Effect upon Epping Forest SAC

13. The application site lies within a 0-6.2km buffer of the Epping Forest Special Area of Conservation (SAC). The Council have advised that any such proposal will be subject to a levy payable to the Council. It appears to be part of an agreed package of measures aimed at providing a pooled contribution to be used towards providing measures to off-set the effects of recreational disturbance on the SAC. Although I have been provided with limited information as to the how the levy was arrived at, I note that the appellant does not dispute that it is necessary or that the proposal would result in the creation of an additional dwelling within the Zone of Influence for the SAC. I am therefore content that the contribution is necessary in planning terms to secure mitigation to offset the likely effects of development on a protected European site.
14. I note that the appellant is content to pay the fee. However, I have been provided with no evidence that such a payment has already been paid, or that there is a mechanism to secure payment in the event that the appeal is allowed. In these circumstances I must conclude that the proposal fails to ensure that adequate provision would be provided.
15. The Council's decision notice refers to the proposal being contrary to Policies LP33 and LP38 of the Local Plan, but these policies concern the effect of development on heritage matters and trees. Nevertheless, the proposal would fail to comply with guidance in the Framework, which states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Conclusion

16. I have also considered whether allowing the appellant the opportunity to pay the levy would alter the outcome of this case. However, as the matter of harm to local character is on its own determinative, I am satisfied that doing so would not alter my overall conclusions.
17. The dwelling would make a small contribution to the housing stock which I give limited weight to as a planning benefit, commensurate with the scale of the proposal. The harm that would arise as a result of the proposal to the character of the area would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
18. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Anne Jordan

INSPECTOR