



Appeal Decision

Site visit made on 19 June 2023

by J Reid BA(Hons) BArch(Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 27 June 2023

Appeal Ref: APP/M3835/D/22/3309058

5 Selden Mews, Selden Lane, Worthing, West Sussex BN11 2BN

- 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 James Long against the decision of Worthing Borough Council.
 - The application Ref AWDM/0971/22, dated 7 June 2022, was refused by notice dated 28 July 2022.
 - The development is "Outbuilding. Currently used as storage whilst works are carried out (planning approved) and eventually I plan to connect electricity so the room is usable as a quiet place for my 2 sons to study and pursue hobbies."
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Decision

1. The appeal is dismissed.

Procedural matter and main issue

2. Since the appeal was made, the Council has adopted the Worthing Borough Council Local Plan 2020-2036 (LP). The LP supersedes the policies in the Worthing Borough Council Core Strategy, and LP Policy DM5 is relevant.
3. The main issue is the effect that the development has on the living conditions of the occupiers of Flat 9, Eastfield House, 8 to 10 Selden Road, regarding natural light.

Reasons

4. The appeal site includes the back garden of the appeal dwelling, the far end of which adjoins the shallow outside space at the back of Eastfield House. The Council says that the appeal dwelling is part of a terrace of 4 houses and one flat at 1 to 5 Selden Mews, which was permitted as part of a residential conversion into retirement homes in 1988, ref WB/537/88. It adds that Condition 10 withdrew permitted development rights for extensions and outbuildings in the interests of amenity and of future occupiers, to enable the Council to assess the likely impacts.
5. The Council has granted planning permission for a single storey full width 4 m deep back extension to the appeal dwelling, ref AWDM/1832/21. The former shed and the former conservatory at the back of the appeal dwelling have been removed and a back extension has been built.
6. The development (outbuilding) is situated very close to the site's back boundary, and close to the only window to the only living room in Flat 9. The width of the outbuilding is more than half the width of the back garden, and it

extends roughly north and roughly south well beyond both sides of Flat 9's living room window. The back and eaves of the outbuilding are taller than the back boundary fence, and the ridge of its pitched roof, which runs roughly parallel with the back boundary, is taller still. Due to the relationships between the outbuilding and Flat 9's living room window, the outbuilding has an overbearing and oppressive impact on the outlook from that room, and due to its solid form, orientation, scale and siting, the outbuilding causes an unacceptable loss of natural light, that is, both daylight and sunlight taken together, in that room.

7. The appellant says that his property is overlooked by the flats, but some degree of mutual overlooking between nearby dwellings would reasonably be expected in an urban area such as this. Moreover, the relationships between the nearby dwellings and the back extension would have been found acceptable by the Council when planning permission for the back extension was granted.
8. Whilst the appellant's aerial maps provide little indication of the height of the former vegetation, and the photographs of the former shed mostly show a different part of the site, little weight can be attached to any former vegetation by the site's back boundary because almost all of it has gone. As the modest former shed was sited well away from the back boundary and close to the site's roughly north boundary, it would have had almost no effect on the natural light received in the living room in Flat 9.
9. The appellant has suggested that planting between the outbuilding and the boundary fence would mitigate its impact. However, as planting is unlikely to endure in that narrow poorly lit space, as planting could not reasonably be controlled by condition for more than a few years, and as the solid form of the outbuilding would block most of the natural light that would have passed between its leaves and branches had the outbuilding not been there, it would not overcome the harm. Moreover, the appellant's concerns about the Council's handling of the application are not relevant to my findings.
10. Therefore, I consider that the development harms the living conditions of the occupiers of Flat 9 regarding natural light. It is contrary to LP Policy DM5 which aims for development to not have an unacceptable impact on the occupiers of adjacent dwellings, including unacceptable loss of daylight/sunlight. It is also contrary to the National Planning Policy Framework (Framework), which seeks a high standard of amenity for existing and future users.

Conclusion

11. I have found that the development is contrary to the Development Plan when taken as a whole. The other considerations in this case, including the Framework, do not outweigh that conflict.
12. For the reasons given, the appeal should be dismissed.

J Reid

INSPECTOR