



Appeal Decision

Site visit made on 14 November 2023

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2023

Appeal Ref: APP/A5270/W/23/3322515

175 Tentelow Lane, Ealing, Southall UB2 4LP

- 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 Bhupinder Singh Chatha against the decision of the London Borough of Ealing.
 - The application Ref 230115FUL, dated 11 January 2023, was refused by notice dated 14 March 2023.
 - The development proposed is retention of 3nos of outbuildings and a koi pond.
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Decision

1. The appeal is dismissed insofar as it relates to Outbuilding A.
2. The appeal is allowed insofar as it relates to Outbuildings B and C and the koi pond and planning permission is granted for Outbuildings B and C and the koi pond at 175 Tentelow Lane, Ealing, Southall UB2 4LP in accordance with the terms of the application, Ref 230115FUL, dated 11 January 2023, and the plans submitted with it, so far as relevant to that part of the development hereby permitted and subject to the following conditions:
 - 1) The development hereby approved, insofar as it relates to the Outbuildings B and C and the koi pond, shall be carried out in accordance with drawing numbers:

2023-OB-1 Sheet # 1/3; 2023-OB-2 Sheet # 2/3; and
2023-OB-3 Sheet # 3/3
 - 2) No materials shall be used on the external elevations or roofs of the development hereby approved, insofar as it relates to the Outbuildings B and C, other than those referred to on the approved plans (dwg refs: 2023-OB-2 Sheet # 2/3 and 2023-OB-3 Sheet # 3/3).
 - 3) Outbuildings B and C hereby approved shall be used only for domestic purposes incidental to the use of the dwelling on this site, and shall not be used for separate habitable accommodation, letting or any commercial use.
 - 4) Notwithstanding the provisions of Article 3 Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent amendment, revision or new Order) no windows or other openings (other than those shown on the approved plans) shall be formed in the walls or roofs of the approved Outbuildings B and C.

Preliminary Matters

3. The appellant has confirmed that the description of development used on the decision notice was amended by the Council without their agreement and subsequently this description of development was also used on the appeal form. As such the description of development in the above banner heading is taken from the original planning application form (dated 11 January 2023).
4. The submitted plans clearly label the three outbuildings subject to this appeal as A, B and C, and these labels have been adopted by the Council within their submissions / documents. I have therefore also used these labels in my formal decision and throughout this decision letter.
5. The appellant has provided a copy of a decision notice (Council Ref: 231110FUL – dated 26 May 2023) which grants planning permission for the “*Retention of single storey detached garden outbuilding (Retrospective Application)*”. The appellant has advised that this planning approval relates to Outbuilding C which forms part of this appeal. The Council has also confirmed that this planning approval relates to Outbuilding C of this appeal.
6. At the time of my site visit all three outbuildings, and the koi pond, have been either constructed on site, or are nearing completion.
7. The Council has included reference to Policy 7C of the Ealing Development Management Development Plan Document (2013) in its reason for refusal and this policy seeks to retain the significance of conservation areas. The Council’s Officer Report does not however make any reference to the proposal having any harmful impact on the significance of the St Mark’s Church & Canal Conservation Area. Accordingly, I address this under ‘Other Matters’.

Main Issues

8. The main issues are:
 - the effect of the proposal on the living conditions of the occupiers of numbers 173 and 177 Tentelow Lane with regard to daylight, sunlight and outlook; and
 - the effect of the proposal on the character and appearance of the host property and the surrounding area.

Reasons

Living conditions of neighbouring occupiers

Outbuilding A

9. Outbuilding A is situated along the common boundary shared with the neighbouring property at 173 Tentelow Lane (No. 173), for a distance of approximately 7.6m according to the submitted plans. This outbuilding is 3m high with a flat roof design and the submitted information states that this outbuilding would be used as a gym. At the time of my site visit the construction of this outbuilding was nearing completion, although some external materials still needed to be installed.
10. This outbuilding, as a result of its length, height and siting along the shared boundary in relation to the rear elevation of the neighbouring dwelling at

No. 173, introduces a substantial expanse of built development visible above the existing shared boundary.

11. The proposal would result in an overbearing impact and loss of outlook, when viewed from the rear windows of No. 173, as well as from within the rear garden.
12. Given the site's orientation, the height of the building would lead to overshadowing through the loss of sunlight to part of this neighbouring rear garden area.
13. Whilst No. 173 has a long rear garden, the siting of the outbuilding and its proximity to the rear elevation of No. 173 results in its impact being on the section of garden that is close to the rear of this neighbouring house. This section of the garden is likely to be used most frequently by the occupiers of the neighbouring property because of its closeness to the back of the house.
14. It is acknowledged that there is currently an existing wall and fence along the shared boundary which vary in height. However, I observed on site that the top of the outbuilding sits higher than the boundary treatment, creating a more oppressive and overbearing feature along this shared boundary than the existing wall and fence.
15. I note the appellant's comments that the outbuilding is set approximately 5m away from the rear elevation of this neighbouring property, and the nearest ground floor window in the rear elevation of this neighbouring property is shielded by a protruding canopy. Nevertheless, for the reasons given above Outbuilding A would be clearly visible from the openings in the rear elevation of No. 173 and would result in harm to the living conditions of the occupiers, both when viewed from within the dwelling and the rear garden area.
16. The appellant has made reference to other outbuildings at nearby properties within the locality. However, I have not been provided with any details in respect of how these other outbuildings compare to the appeal proposal in respect of their height, siting and relationship with neighbouring properties. As such, in the absence of any specific details in respect of these neighbouring outbuildings, I attribute them very limited weight in my consideration of this appeal proposal. Furthermore, each proposal must be judged on its individual merits and based on the site-specific circumstances.

Outbuilding B

17. Outbuilding B is positioned along the side boundary shared with the neighbouring property at 177 Tentelow Lane (No. 177) and has a length of approximately 6.9m according to the submitted plans. This outbuilding is 3m high with a flat roof design and the submitted information states that this outbuilding would be a storage and pump room in association with the koi pond. At the time of my site visit this outbuilding appeared to be fully built, but not operational.
18. This outbuilding is situated a significant distance from the rear elevation of No. 177 and is partially screened from this neighbouring property by a high fence situated along shared boundary. Whilst this existing fence does vary in height and would not screen the whole of the outbuilding, given the distance from the rear elevation of No. 177 the outbuilding would not appear as an overbearing or oppressive feature when viewed from the openings in the rear

elevation of this neighbour. As such this outbuilding would not result in a loss of outlook from the openings in the rear of the property at No.177.

19. As a result of the varying height of the fence only a proportion of the outbuilding would be visible from the garden area of No. 177, and it would result in some limited overshadowing resulting from the outbuilding. However, given the distance of the outbuilding from the rear elevation of No. 177 the impacts would be limited to a section of the garden that is situated a reasonable distance from the rear elevation of this neighbouring property. Thus the section of the garden that is closest to the rear of the dwelling, and therefore the section that is likely to be most frequently used, would not be unduly impacted by Outbuilding B.
20. In view of the above, Outbuilding B would not result in undue harm to the living conditions of the occupiers of No. 177, either when viewed from the dwelling or the rear garden area.

Outbuilding C

21. The reason for refusal on the decision notice, and the Council's Officer Report, raise no concern in respect of the impact of Outbuilding C on the living conditions of neighbouring occupiers. I acknowledge that some interested parties have raised concerns in respect of this outbuilding but based on my site visit I find that despite its size it is located well away from neighbouring properties on the north side of the site. It would not therefore have a harmful impact upon the living conditions of any neighbouring occupiers by reason of loss of light or outlook.

Koi Pond

22. The pond has been constructed below ground level in the rear garden and would not have any undue impact upon the living conditions of any neighbouring occupiers by reason of loss of light or outlook. I note that interested parties have queried issues of potential flooding, however I have been provided with no evidence to suggest that the koi pond would have any impact upon flooding in this area.

Summary on living conditions

23. In view of all the above, the koi pond and Outbuildings B and C would not have any adverse impact upon the living conditions of neighbouring occupiers. However, I conclude that Outbuilding A would result in harm to the living conditions of the occupiers of No. 173 by way of overbearing impact, loss of outlook and overshadowing, both when viewed from within the dwelling and the rear garden area. As such Outbuilding A would be in conflict with Policies D3 and D6 of the London Plan (2021), and Policy 7B of the Ealing Development Management Development Plan Document (2013) (DMDPD), insofar as they together seek to ensure that new development should deliver appropriate outlook and amenity, and provide sufficient daylight and sunlight to surrounding houses.
24. Furthermore, Outbuilding A would fail to comply with the guidance contained within the Council's Supplementary Planning Document 4 Residential Extensions (2004) (SPD) where it states that outbuildings should not cause a loss of light to neighbouring properties or adversely affect the living conditions of neighbours. The proposal is also considered to be contrary to paragraph 130(f) of the

National Planning Policy Framework (the Framework) which seeks to ensure developments provide a high standard of amenity for existing users.

Character and appearance

25. There is an agreement between the main parties that both Outbuilding C and the koi pond would not adversely impact on the character and appearance of the area. I find that due to their siting, design and level of screening from views outside the appeal site, both Outbuilding C and the koi pond would not result in harm to the character and appearance of the area.
26. In respect of Outbuildings A and B, being situated within the rear garden these are also well screened from public vantage points to the front of the dwelling, with the exception of a small section of Outbuilding A which is visible through a gap between the two-storey dwelling and its detached garage. Nonetheless, this view is fleeting and is not harmful to the street scene at the front of the dwelling.
27. Outbuildings A and B Are visible from the rears of neighbouring dwellings, however outbuildings are a very common feature of the area and a significant number of neighbouring properties have detached outbuildings in their rear gardens.
28. Furthermore, whilst the flat roof design of the outbuildings would contrast with the traditional roof design of the main dwelling, in my view this would not result in an unsatisfactory relationship as it is not uncommon for outbuildings to have a flat roof design.
29. Interested parties comments in respect of the design, materials and appearance of the outbuildings are noted, however for the reasons given above the design, materials and appearance are acceptable in this residential area.
30. In view of the above, the proposal would not cause any harm to the character and appearance of the host property and the surrounding area in general. I therefore find no conflict with Policies D3 and D4 of the London Plan, and Policies 7B and 7.4 and of the Ealing DMDPD, insofar as they together seek to ensure that new development should be of a high-quality design and positively respond to local distinctiveness and existing character of a place.
31. The proposal would also accord with the requirements of the Framework, which seeks to secure high quality design which takes account of the local character and reflect the local surroundings.

Other Matters

32. The appeal site adjoins the boundary of the St Mark's Church & Canal Conservation Area (CA), however the appeal site and the proposed outbuildings are not located within the CA. Nevertheless, being situated in close proximity to the CA I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
33. Outbuilding C would be situated closest to the boundary of the nearby CA, and therefore would be the part of the proposed development that is most likely to have an impact on the CA. However, views of the outbuilding from the CA are

screened by mature vegetation. Consequently, I find that there would be no conflict with Policy 7C of the Ealing Development Management Development Plan Document (2013) as this outbuilding would not lead to harm to the significance of the CA, and would preserve its character and appearance.

34. I note the interested parties comments in respect of land ownership and boundary disputes, however these are private legal issues and are not matters I can take into account in the determination of this appeal.
35. Concerns have been raised with regard to inadequate access for the fire brigade, the structural integrity of the canal as a result of Outbuilding C and the dangers associated with children playing near the canal. However, I have no substantive evidence that the proposal poses any safety risks in respect of these matters.
36. I acknowledge the comments that the proposal is retrospective however this is not determinative in the outcome of the appeal. Furthermore, interested parties have suggested that Outbuilding C could be used as a dwellinghouse. In regard to this issue, a separate planning permission would be required for use of any of the outbuildings as a dwellinghouse and a condition has been included requiring the outbuildings to be used as incidental to the residential use of the main dwelling.
37. Concerns have also been raised in respect of noise nuisance and loss of privacy. With regard to noise, the outbuildings would be used for domestic purposes and I have no evidence that they would generate any greater levels of noise than those currently generated from the existing dwellinghouse. In terms of overlooking, the proposed outbuildings are all single storey and the boundaries shared with neighbouring properties are all screened by a mixture of walls, fences and vegetation. As such I do not consider that the outbuildings would result in any significant loss of privacy through overlooking and furthermore a condition has been added preventing the installation of any additional openings within the outbuildings, other than those shown on the approved drawings.

Conclusion

38. For the reasons given above I conclude that the appeal should be allowed insofar as it relates to outbuildings B and C and the koi pond, but dismissed insofar as it relates to outbuilding A as a result of the impact upon the living conditions of the occupiers of the neighbouring property at 173 Tentelow Lane.

Conditions

39. The Council has provided a list of suggested planning conditions, which I have assessed in respect of the requirements of the Framework, and advice provided in the Planning Practice Guidance.
40. As the development has commenced, it is not necessary to include the standard time limit condition. I have attached a condition specifying the approved plans to provide certainty, as well as including a condition which requires the development to be implemented in accordance with the material details shown on the approved plans, in order to safeguard the character and appearance of the area.

41. A condition limited the use of the outbuildings for domestic purposes incidental to the dwelling has been attached, as has a condition preventing the installation of any additional openings in the outbuildings, other than those shown on the approved plans. Both these conditions are necessary to protect the living conditions of neighbouring occupiers.
42. The Council has suggested a condition preventing the outbuildings from being altered to form a balcony, roof garden or roof terrace. However, there is no evidence or indication that the outbuildings will be used as balcony, roof garden or roof terrace and thus this condition is not considered to be reasonable nor necessary. As such this condition has not been included.

R Major

INSPECTOR