



Appeal Decision

Site visit made on 10 October 2024

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2024

Appeal Ref: APP/A5270/C/23/3314626

1498 Greenford Road, Greenford, Middlesex UB6 0HP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Jia Jing He against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The enforcement notice was issued on 29 November 2022.
 - The breach of planning control as alleged in the notice is without planning permission: the material change of use of the outbuilding at the rear of the property to use as a self-contained dwelling.
 - The requirements of the notice are:
 1. Cease the use of the outbuilding as a dwelling; and
 2. Remove from the outbuilding the kitchen facilities including kitchen units, cooking facilities, sink and drainage facilities.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) 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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Decision

1. It is directed that the enforcement notice be:
 - Varied by deleting the words "three months" within section 5 (what you are required to do) and its replacement with "six months".
2. Subject to this variation, the appeal is dismissed, and 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.

The Appeal on Ground (a) and the Deemed Planning Application

Main Issues

3. The main issues are:
 - Whether the unauthorised use results in any adverse effects on the character of the area.
 - The effect of the unauthorised use on the living conditions for the occupiers of the dwelling and neighbouring properties on Greenford Road, with particular regard to noise and disturbance, outlook, privacy and the provision of amenity space and internal floorspace.

- Whether the unauthorised use provides suitable emergency escape route in the event of a fire.

Reasons

Character of the Area

4. The property relates to an outbuilding in the rear garden of a two storey semi-detached properties. The surrounding area is predominantly residential in character with a mixture of dwelling houses and flatted developments. The appeal site itself is located on a main road.
5. An over-intensive use of a property has the potential to harm the established residential character and quality of an area. This can be through the physical alterations undertaken to achieve the accommodation or from a change in the character of the area due to a more intensive residential occupation and the increased number of bins at the front of the property, and the transiency of occupation, which can undermine a sense of community and the upkeep of properties.
6. However, I note that the current outbuilding is of a size and scale similar to other garages and outbuildings in the rear gardens in the locality. On this occasion, the change of the outbuilding to a self-contained dwelling, has been achieved with minimal changes to the external alteration of the building. Based on the evidence before me, the outbuilding retains little outward indication that it has been converted to form a self-contained dwelling and has retained the physical appearance and size to other outbuildings and garages nearby.
7. Furthermore, there was not an unsightly proliferation of bins or any other physical manifestation of an over-intensive use of a property, which could be considered to harm the residential character of the area, such as a spread of aials and other paraphernalia and clutter. Additionally, the rear garden has not been subdivided. As such, there is nothing before me to suggest the self-contained use of the outbuilding has resulted in any harm to the character of the area.
8. I conclude on the first main issue that the appeal scheme preserves the character of the area, in accordance with Policy D3 of the London Plan, 2021 (London Plan) and Policies 7.4 and 7B of the London Borough of Ealing Development Management Development Plan Document, 2013 (DMDP). In combination, these require that development proposals ensure a positive visual impact, as a result of good architecture and layout, enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape.

Living conditions - noise and disturbance for neighbouring occupiers

9. The outbuilding is occupied as a separate dwelling, by an adult and his two parents, who are unrelated to the tenants of the main dwelling fronting the road. There is a modest rear garden which appears to be shared between occupants of both buildings, since there is no fence separating the garden.
10. In relation to the level of activity associated with the unauthorised use, the outbuilding occupied by three adults, unrelated to the occupants of the main house, would have separate work/domestic regimes and would attract their own visitors and deliveries at different times during the day and evening. In

this respect, the outbuilding occupied as a separate dwelling is more likely to increase the volume of movements to and from the property, than a family dwelling, and the range of times when these activities take place.

11. The introduction of a separate dwelling in the rear garden, in close proximity to occupants of the main house and neighbouring properties has resulted in levels of noise and disturbance which adversely affect the living conditions of neighbouring occupiers. This derives from noise generated from 'comings and goings' outside of the building, and the increasing use of the side access gate for entering the property, the over-intensive use of the modest rear garden, and the increased vehicular and pedestrian movements around the site.
12. I therefore conclude that the unauthorised use has had a harmful effect on the living conditions of neighbouring occupiers, with particular regard to noise and disturbance, in conflict with Policy 7B of the DMDP. Amongst other things, this requires new development must achieve a high standard of amenity for users and for adjacent uses by ensuring appropriate levels of development on site.

Living conditions – outlook and privacy for occupiers of the dwelling

13. The Council's second reason for refusal relates to poor outlook and loss of privacy for the current and future occupants of the dwelling. The self-contained dwelling comprise one main living room/dining/bedroom, with a small separate kitchen and bathroom. The evidence indicates that the single living room/dining room/bedroom is occupied by three adults, and I observed that this single room contains one modest sized window only, which is in close proximity to the main dwelling. The position of this single habitable room window, coupled with the lack of sufficient screening results in significant and intrusive overlooking to occupiers of this rear dwelling, which would harm their living conditions.
14. The position of this window also results in poor outlook for occupiers of the rear dwelling. In particular, the small single window serving the living/dining/bedroom for this dwelling results in a sense of enclosure that feels oppressive and claustrophobic for occupants of the dwelling. Given the close proximity of the window to the main dwelling and garden would also require the blinds to be drawn for much of the day to prevent direct overlooking. This in turn results in an increased sense of enclosure and unacceptable harm to the living conditions of the occupiers of the rear dwelling.
15. I therefore conclude that the unauthorised use harms the living conditions of the occupiers of dwelling, with particular regard to privacy and outlook, in conflict with Policies 7B of the DMDP. Amongst other things, this requires new development must achieve a high standard of amenity for users and for adjacent uses by ensuring good levels of privacy.

Living conditions – private amenity space for occupiers of the dwelling

16. Both Policy D6 of the London Plan, 2021 (London Plan) and Table 7D.2 of the DMDP requires a minimum of 5sqm of private outdoor space should be provided for 1-2 person dwellings and an extra 1sqm provided for each additional occupant. Table 7D.2 states that this space requirement should be read as a minimum and that this minimum baseline requirement will in most cases need to be supplemented by additional private garden space to satisfy other policy requirements/ design considerations. The amount and form of provision should respond to the physical context, respecting the established

local character. Table 7.2 indicates that this would typically equate to an area of 50 sq. m of private garden space per house.

17. As outlined above, the new dwelling in the rear garden has been occupied by three adults. Contrary to the above policies, no private amenity space has been provided for occupiers of the new dwelling. The appellant highlights that public open space is available in the area. However, I do not consider that this public open space would compensate for the lack of sufficient private amenity space provision proposed for this dwelling, which has been occupied by a family.
18. I therefore conclude that the unauthorised use harms the living conditions of the occupiers of dwelling, with particular regard to the provision of private amenity space, in conflict with Policy D6 of the London Plan and Table 7D.2 of the DMDP, which seeks the aforementioned aims.

Living conditions – internal floorspace for the dwelling

19. Although not specifically contained within the notice, the Council's Statement, also raises an objection regarding the insufficient provision of internal floorspace for the dwelling. The dwelling comprises an open plan studio with a separate kitchen and shower room. The dwelling has been let out to three adults. Policy D6, Table 3.1 of the London Plan, and London Plan Guidance Housing Design Standards, 2023 (Mayor's LPG) only provide minimum gross internal floor areas for 1 bedroom 2 person dwellings (39sq.m required) and 1 bedroom 2-person dwelling (50sq.m required). This policy also requires a minimum internal height of 2.5m must be achieved for at least 75% of the Gross Internal Area, and that single aspect dwellings should be avoided. These requirements are in conformity with the
20. However, contrary to this policy, the Council advise that the floorspace is approximately 35sq.m, and the internal height is less than 2.5m which has not been disputed by the appellant. I also observed during my site visit that there was insufficient space within the dwelling for furniture such as a dining table, work desk and chairs, and limited clear surfaces in the small kitchen for preparing and cooking food. There was also a clear lack of built in storage space and limited circulation space. Furthermore, the dwelling is single aspect only, with the main living, dining and sleeping served by only one modest sized window. As a result, the development fails to provide a satisfactory living environment, which feels cramped, claustrophobic and oppressive for occupiers of the dwelling.
21. I therefore conclude that the unauthorised use harms the living conditions of the occupiers of dwelling, with particular regard to the provision of internal floorspace, in conflict with Policy D6 of the London Plan and, Policy 3.5 of the DMDP and the Mayor's LPG. Amongst other things these require that housing development be of a high-quality design and provide adequately sized rooms with comfortable and functional layouts which are fit for purpose and meet the needs of Londoners.

Suitable emergency escape route in the event of a fire

22. Policy D12 of the London Plan requires that new development provide suitable and convenient means of escape in the event of a fire and provide suitable outside space for fire appliances to be positioned on. However, no satisfactory details of how the unauthorised use satisfies policy D12 have

been provided. Furthermore, as the unauthorised use is situated to the rear of the main dwelling, and only accessible via a narrow side passageway it is unclear whether the unauthorised use can be made to satisfy the criteria of Policy D12. As such, in the absence of any substantive evidence, I do not consider that fire safety can be satisfactorily dealt with via a condition of planning permission.

23. I therefore conclude that the unauthorised use fails to provide suitable emergency escape route in the event of a fire, contrary to Policy D12 of the London Plan, which seeks the aforementioned aims.

Conclusion on Ground (a) and the DPA

24. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The development harms of the living conditions for the occupiers of the dwelling and neighbouring properties and fails to provide a suitable emergency escape route in the event of a fire, in conflict with the development plan taken as a whole. None of the other matters raised by the appellant, including the limited benefits of providing an additional dwelling, and the lack of harm in relation to the character and appearance of the area outweighs the harms identified. Therefore, there are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.
25. For the reasons given and with regard to all other matters raised, I conclude that the appeal on ground (a) should fail, and the DPA should be refused.

The Appeal on Ground (g)

26. The appeal on this ground is that any period specified in the notice falls short of what should reasonably be allowed. The appellant asks that the time for compliance is extended from 3 to 12 months, in order to provide sufficient time to re-home existing occupiers and carryout the required building works.
27. In my view 6 months would strike a more reasonable and proportionate balance in this instance. I shall therefore amend the period to 6 months for compliance with the notice. I also note that the Council have powers under s173A(1)(b) to extend any period for compliance, a matter entirely at their discretion, without prejudicing their right to take further action.
28. To this extent, the ground (g) appeal succeeds, and I will vary the notice accordingly.

Conclusion

29. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

R Satheesan

INSPECTOR