



Appeal Decision

Site visit made on 3 June 2024 by A Khan BSc (Hons) MA MSc

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2024

Appeal Ref: APP/B5480/D/24/3339232

23 Lime Avenue, Havering, Upminster RM14 2HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms Rachel Foster (C/O KMDS Designs) against the decision of the Council of the London Borough of Havering.
 - The application Ref is P1509.23.
 - The development proposed is single storey annex building to rear of garden to be used in conjunction with main house.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The National Planning Policy Framework was revised during the life of the appeal. The substantive elements thereof as they relate to the appeal scheme have not changed. I am therefore satisfied that there is no need to seek the views of the main parties.

Main Issue

4. The main issues are the effect of the proposal on the character and appearance of the area and the living conditions of the occupiers of 23 Lime Avenue and 7 Aspen Grove with regard to outlook and noise and disturbance.

Reasons for the Recommendation

Character and appearance

5. The appeal site lies in a residential area that predominantly has semi-detached dwellings with side garages accessible from the public realm. Properties along Lime Avenue have small front gardens and longer, but still modestly sized, narrow rear garden spaces, many with outbuildings of modest size. These garden areas contribute to the green, suburban character and appearance of the area.
6. The proposed outbuilding plan designates areas for sleeping, living, cooking and bathroom areas, so would provide the facilities required for day-to-day

private domestic existence. Nevertheless, the courts have held that even where such facilities are provided, accommodation would not necessarily become a separate planning unit from the main dwelling. Rather, it would be a matter of fact and degree.

7. The description of development states that the proposed annex would be used in conjunction with the main house, however I have limited information about how it would be occupied and by whom. Access, parking and garden areas would be shared, but it is unclear whether there would be shared accommodation such as occupiers of the annex taking meals together with the main household, or a familial relationship between the occupiers.
8. The proposed outbuilding would be relatively large in relation to the existing modest bungalow and its garden but relatively close to it, as the garden is not large. Therefore, it could be used for other purposes as part of the main dwelling once any dependency need has ceased, as required by the Council's Residential Extensions and Alterations Supplementary Planning Document (adopted 2011) (SPD). Separate access could be achieved to the annex via the existing driveway, but this would restrict parking and access for the main dwelling, which reduces the likelihood of this occurring.
9. Overall, there is some potential for the proposed outbuilding to be used independently of the main dwelling, however given the close physical relationship and degree of shared facilities, it is also capable of being occupied as an annex. Furthermore, even if the development could be used as a separate dwelling, that is not the scheme before me. If the structure were not built or used as proposed, or if there were a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required, and the building would be at risk of enforcement action if such permission is not granted.
10. For this reason, a condition limiting the use to that proposed would not be necessary. It is unclear from the somewhat contradictory evidence whether the annex would be occupied as part and parcel of the main dwelling or for ancillary purposes, so a condition to limit it to ancillary use would also not be necessary or reasonable. Nor, in light of the reasoning above, would a condition to limit occupation to immediate family members be reasonable. Therefore, I shall proceed to consider the appeal proposal on the basis that it would be used as an annex, as applied for.
11. The proposed outbuilding would be visible from the road, with the highest part, the dummy roof, seen through gaps between dwellings. It would also be clearly visible from neighbouring gardens, given its height and proximity to boundaries. The considerable scale of the outbuilding relative to the existing bungalow and its garden would be evident, and it would be larger than other outbuildings in the immediate area. It would represent a substantial increase in volume of built form on the plot, undermining the open and spacious character of the area and as a result would be incongruous with the pattern of development of the local area. Therefore, due to its scale and siting, the outbuilding would not respect or complement the character of the site and locality and would harm the character and appearance of the area.
12. Consequently, the development would conflict Policy 26 of the Havering Local Plan 2016 - 2031 (adopted 2021) (LP), insofar as this policy requires that

development proposals abide by high quality design standards, respect local character and respond to patterns of development in the local area.

13. While there are many other outbuildings locally, those in the vicinity of the site are smaller than this proposal. Of those mentioned by the appellant, most are in larger gardens and some distance from the appeal site, and I have limited information about what was on those sites previously. The appellant also mentions that some of the outbuildings they refer to have no planning history, so I do not know how they came to be built.
14. The outbuilding at 23 Hornbeam Avenue replaced two existing garages, therefore did not introduce a large structure into a largely open garden space, as the appeal proposal would. The appeal scheme at 89 Christchurch Avenue involved replacing a highly visible garage with another outbuilding and in that case, as with others mentioned by the appellant, it is apparent that there were outbuildings of similar size in the vicinity.
15. The other annexes referred to as of similar design are oriented differently to the appeal proposal, such that the dummy pitched roof is on the short side of the building. They are therefore of different appearance and slightly less bulky than the appeal proposal. The appeal scheme at 11 Burntwood Avenue was against an enforcement notice. The Inspector was considering whether a material change of use had occurred in respect of existing buildings that had previously been permitted for purposes associated with the main dwelling. Therefore, it was a very different scenario to the appeal scheme before me and the assessment in that case is not wholly relevant to this proposal.
16. Consequently, these other examples are not directly comparable to the appeal scheme in context and/or appearance. I therefore afford them limited weight and they do not justify the harm that the proposal would cause to the character and appearance of the area.

Living conditions

17. The appeal scheme would run alongside most of the shared boundary with the rear garden of 7 Aspen Grove. That property has a garage to one side of the garden with a shed behind, which limit the outlook from the rear of the property and the garden in that direction. The outbuildings and fences create a strong sense of enclosure in this relatively small garden of limited depth.
18. There is a raised patio along the shared boundary and this sitting area would be located directly next to the proposed outbuilding. The height and bulk of the proposed structure, along with its depth in close proximity to the shared boundary, would exacerbate the existing sense of enclosure.
19. The existing outbuildings of No 7 would provide limited screening of the appeal proposal from the rear windows of that property and little screening from the garden, due to their height and siting. Due to the height of the proposal, it would dominate the view from the garden of No 7, and this would be intensified by the change in levels towards the shared boundary.
20. Consequently, the proposal would have an overbearing impact when viewed from the garden of No 7 and, to a lesser extent, its rear windows. Given the limited size of the garden and existing restricted outlook, this would result in an unacceptable loss of outlook from that property.

21. The proposal for an annex is unlikely to generate significantly more noise and disturbance than an outbuilding used for other purposes associated with a dwelling, such as a home office, gym or recreation space. It would be used in conjunction with No 23, therefore would be occupied by the same people. Consequently, the proposal would not harm the living conditions of the occupiers of either the host property or No 7 with regard to noise and disturbance.
22. Nevertheless, the proposal would significantly harm the living conditions of the occupiers of No 7 with regard to outlook. Accordingly, it would conflict with LP Policy 7, which seeks to protect the living conditions of existing residents and LP Policy 26, which requires that proposals integrate with neighbouring developments.
23. While there are existing outbuildings along Aspen Grove, they are lower in height than the proposed outbuilding and therefore not comparable in their impact on neighbouring properties. I therefore give this very limited weight and it does not justify the harm identified.
24. Although an outbuilding could potentially be constructed without planning permission, the lower permitted height would mean that such a structure would have less of an overbearing impact when viewed from No 7. The height difference would be relatively modest but given how far along the shared boundary the proposal would extend, a permitted development scheme would nonetheless result in less harm to the living conditions of the occupiers of No 7 than the appeal proposal.
25. In addition, as the appellant acknowledges, permitted development rights only allow outbuildings incidental to the enjoyment of the dwellinghouse, so such an outbuilding could not be used as primary living accommodation. Therefore, there is no substantive evidence before me that an outbuilding of the size proposed in this appeal would be erected as permitted development if it could not be used as living accommodation. Accordingly, I give this fallback position limited weight, and it does not justify the harm to the living conditions of No 7.

Conclusion and Recommendation

26. The proposal would conflict with the development plan read as a whole, and there are no material considerations that justify granting permission. Therefore, for the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

A Khan

APPEAL PLANNING OFFICER

Inspector's Decision

27. I have considered all the submitted evidence and my representative's report and agree with the reasoning and recommendation. On that basis the appeal is dismissed.

L McKay

INSPECTOR