



Appeal Decision

Site visit made on 21 January 2025

by H Senior BA (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 April 2025

Appeal Ref: APP/H5390/W/24/3351698

22 Bryony Road, London W12 0SS

- 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 Mr Patrick Emek against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref is 2024/00699/FUL.
 - The development proposed is use of outbuilding as independent residential unit.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Prior to the determination of this appeal, a new version of the National Planning Policy Framework (the Framework) has been published. Both parties have had the opportunity to comment on this and I have taken into account their responses in determining the appeal.

Main Issues

3. The main issues are:
 - whether the proposal would preserve or enhance the character or appearance of the Old Oak and Wormholt Conservation Area;
 - whether the accessible housing requirements apply to the proposed development and, if so, whether suitable provision would be made for a wheelchair or accessible and adaptable dwelling;
 - whether the proposal would provide the highest standards of fire safety; and
 - whether the proposal would provide adequate refuse storage areas.

Reasons

Conservation Area

4. The appeal site is located within the Old Oak and Wormholt Conservation Area (CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. The CA is characterised by historic street patterns and garden suburb layouts of the Old Oak and Wormholt estates and open spaces such as Wormholt Park. Its significance is derived in part from the influence of the garden city movement.

5. The outbuilding is located at the rear of 22 Bryony Road and is accessed via a covered walkway to the side. No 22 is a previously extended semi-detached dwelling which has been converted to three flats. It is the last dwelling in the street and adjacent to Wormholt Park. The semi-detached dwellings and the spaces between them give a regular rhythm to the area and the street scene. In the vicinity of the proposal, whilst there are some outbuildings, I am not aware of other independent dwellings located in the rear gardens of the original dwellings.
6. Whilst the proposed use of the outbuilding as an independent residential unit would meet the required size standards, it would result in four independent residential units within a relatively small plot of land that would amount to an over intensification. The use as a dwelling would be intrinsically different to that of the outbuilding as a storage unit due to regular comings and goings expected, such as for travel to work, shopping or socialising. This would be at odds with the spacious and verdant characteristics of the CA where dwellings are regularly laid out with rear gardens and with a road frontage.
7. The proposal would include extensions to the outbuilding, changes to the fenestration and the introduction of a pitched roof. The current design of the outbuilding limits views of it from the surrounding area, due in part to the existing trees and landscaping. The pitched roof would increase the height of the outbuilding and thus the bulk and massing of the building. It would subsequently be visible from Bryony Road and from the adjacent Wormholt Park. Although the appeal is for the use of the outbuilding as an independent dwelling, it would not appear subservient to the original building so would compete with it, to the detriment of the character of the area.
8. Given that the proposal relates to only one part of the CA, the harm arising from the proposal, in terms of the approach in the Framework, would be less than substantial. In these circumstances the Framework advises at paragraph 215 that this harm should be weighed against the public benefits of the proposal.
9. The proposal would provide additional living accommodation that is supported by the development plan and which would contribute to boosting the supply of housing locally and nationally. It would also provide new energy efficient self-contained residential accommodation and would contribute to the mix and supply of homes in the area. The occupiers of the proposal would support the local economy through employment and enjoyment. However, these would not equate to public benefits, sufficient to outweigh the harm that I have identified, given that this harm carries great weight. I also note that the building could deteriorate leading to harm to the CA. This carries limited weight as there is no substantive evidence before me that indicates that the additional residential accommodation could not be delivered in a less harmful way. Accordingly, the proposal conflicts with the aims of the Framework in terms of conserving and enhancing the historic environment.
10. The Framework says that substantial weight should be given to the value of using suitable brownfield land within settlements for homes and they should be approved unless substantial harm would be caused. Given my findings in respect of this main issue, in the context of this appeal, the proposal would not amount to using a suitable brownfield site, particularly as one of the key aims of the Framework is to safeguard and improve the environment. It would not therefore benefit from the aforementioned substantial weight afforded by the Framework.

11. For the above reasons, the proposed development would not preserve or enhance the character or appearance of the CA. Consequently, the development would not meet the statutory tests set out in the Act and would conflict with Policies HO4, DC1, DC4 and DC8 of the Hammersmith and Fulham Local Plan 2018 (HFLP) and the aims of the Framework. Amongst other matters, these seek to ensure that development preserves and where possible enhances the character or appearance of Conservation Areas and respects the character of the area.

Accessible Housing

12. Policy D7 of the London Plan (LP) requires new dwellings to meet the standards for accessible housing. Para 3.7.1 goes on to say that the policy should apply to dwellings created via works to which Part M volume 1 of the Building Regulations applies which limits the application of the policy to new build dwellings. The Building Regulations were last updated in 2015 and therefore this position is still valid. Therefore, this policy is not relevant to the proposal and there is no conflict with it. Policy HO6 of the HFLP has similar requirements however, it states that where feasible dwellings resulting from conversions should also meet the requirements of accessible homes. In this case, the building is not capable of meeting the requirements of the policy and again there would be no conflict with it.

Fire Safety

13. Policy D12 of the LP requires that all development proposals must achieve the highest standards of fire safety and sets out several aspects to be considered.
14. Fire safety information was not provided with the application. However, within the statement of case, the appellant has responded to each of the requirements set out in the policy. The Council has not disputed any of the information provided in this regard. As such, from the evidence before me and having regard to the nature and scale of the development, I can see no reason that submission, approval and implementation of a suitable fire safety strategy could not be secured by means of pre-commencement planning condition.
15. Therefore, subject to a suitably worded condition, the proposal would provide the highest standards of fire safety and I find no conflict with LP Policy D12.

Refuse Storage

16. Within the appellant's statement of case, the proposed position of recycling and waste bins, for both general storage and on bin collection day have been shown. Given the quantum of the proposed development I consider that the refuse storage that has been identified would be sufficient to ensure appropriate management of the waste generated by the proposal. From the evidence before me and having regard to the nature and scale of the development, I can see no reason that submission, approval and implementation of a refuse storage plan could not be secured by means of a planning condition.
17. Therefore, subject to a suitably worded condition, the proposal would provide adequate refuse storage areas. It would comply with Policy CC7 of the HFLP which amongst other matters seeks to ensure that developments include suitable facilities for the management of waste generated by it.

Other Matters

18. The appellant claims that the fallback position for the use of the outbuilding would be a non-residential storage unit (Use Class B8). However, I have not been referred to any planning permission that has been granted for this use and there is no substantive evidence before me to determine that there would be a greater than theoretical possibility that this use would be possible. With that in mind, if the appellant wishes to ascertain the lawful use of the appeal building(s), he should apply for a lawful development certificate under s191 (for an existing use) or s192 (for a proposed use) of the 1990 Act (as amended).
19. The outbuilding was originally approved for use ancillary to the ground floor flat¹. Whilst the appellant considers that the condition attached to the previous planning is imprecise, consideration of the condition is not the purpose of this appeal. Should the appellant wish to apply to remove or amend this condition they could apply to the council and consultation would be undertaken for interested parties to comment. Notwithstanding the above there is limited substantive evidence that it would not be capable of being used as ancillary to the ground floor flat albeit with access via the covered walkway, with the agreement of the owner.

Planning Balance and Conclusion

20. The appeal scheme would not accord with the development plan in regard to the preservation or enhancement of the character or appearance of the CA. I would ascribe this matter great weight given its nature and scope. It would also be possible for the appeal scheme to provide the highest standards of fire safety and waste and recycling storage, in accordance with relevant policies of the development plan.
21. I have already identified the benefits of the appeal scheme through assessment of public benefits in undertaking the necessary balancing exercise in relation to the heritage asset. With these and the above in mind, it is clear that there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with the development plan. The appeal should therefore be dismissed.

H Senior

INSPECTOR

¹ 2016/04954/FUL