



Appeal Decision

Site visit made on 20 February 2025

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2025

Appeal Ref: 6000026

36 Argyle Gardens, Upminster RM14 3HJ

- 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 Edward Xhetani against the decision of the Council of the London Borough of Havering.
- The application Ref is P1069.24.
- The development proposed is retrospective planning application for proposed outbuilding.

Decision

1. The appeal is allowed and planning permission is granted for outbuilding at rear of garden at 36 Argyle Gardens, Upminster, RM14 3HJ in accordance with the terms of the application, Ref P1069.24, and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site & Block Plans (Drawing No. 01), Location Plan (Drawing No. 02), Ground & Roof Plans (Drawing No. 03), Front, Rear & Side Elevations (Drawing No. 04).
 - 2) The outbuilding hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 36 Argyle Gardens, Upminster, RM14 3HJ.

Preliminary Matters

2. Differing to the description of development in the banner heading above, the Council's decision notice accurately describes the development as shown on the supporting plans as, "Retrospective planning application for proposed outbuilding at rear of garden". I have used this description in my consideration of the appeal since it best describes the proposed development in precise and concise terms.
3. The proposed development is already in place and I shall deal with the appeal on this basis. However, 'retrospective' is not an act of development, and this has been reflected in the formal decision, above.

Main Issues

4. The main issues are the effect of the development on:
 - the character and appearance of the area; and
 - the living conditions of the occupiers of 34 Argyle Gardens (No 34), with particular regard to outlook.

Reasons

Character and appearance

5. The appeal site comprises a 2-storey semi-detached dwelling which, in common with other nearby residential dwellings, benefits from an elongated rectangular rear garden. The outbuilding the subject of this appeal is located at the end of the garden.
6. At its widest point, the outbuilding spans the full width of the plot. It has a depth of approximately 10 metres. At this scale, although it is a single-storey building which contains a set-in adjacent to its entrance arising from its L-shape, it nevertheless constitutes a structure which is much larger than the other outbuildings found to the rear of nearby plots on Argyle Gardens. As such, it appears noticeably out-of-scale in its residential context when seen from the upper floor windows of nearby dwellings.
7. Although it is subordinate in scale to the dwelling on site, as an overly-dominant feature in an otherwise mostly open rear garden area, it is at odds with the guidance given in paragraph 9.5 of the Residential Extensions and Alterations Supplementary Planning Document (adopted 2011) which provides that, amongst other things, the outbuilding should be subordinate in scale to the plot.
8. I therefore find that the development has an unacceptable and harmful effect on the character and appearance of the area. It conflicts with part i. of Policy 26 of the Havering Local Plan (2016 – 2031) (adopted 2021) (Local Plan) which provides that the Council will promote high quality design that contributes to the creation of successful places in Havering by supporting development proposals that are informed by, respect and complement the distinctive qualities, identity, character and geographical features of the site and local area.

Living conditions

9. As described on the first main issue above, the outbuilding is a substantially-sized structure in its residential context. It is sited on the common boundary with No 34. Its side wall stretches for approximately 10 metres adjacent to the boundary with No 34's plot, and it rises some way above the wall and fence separating the 2 plots. Consequently, although the plot at No 34 benefits from an elongated rear amenity area, it appears as an obtrusive and overly-dominant feature in views from the rear amenity area at No 34. Due to its overbearing impact it thereby harms the living conditions of the occupiers of No 34.
10. I therefore find that the development has an unacceptable and harmful effect on the living conditions of the occupiers of No 34, with particular regard to outlook. It conflicts with part i. of Policy 7 of the Local Plan which provides that, amongst other things, to protect the amenity of existing and future residents the Council will support developments that do not result in unacceptable loss of outlook.

Other Considerations and Planning Balance

11. The appellant has referred to a fallback position, in the form of a Lawful Development Certificate¹ for the construction of a single-storey outbuilding with swimming pool, plant room and WC. Although an outbuilding is already in-situ on

¹ D0426.21

site, there is nothing before me which indicates that the fallback position could not be implemented in its place. Thus, there is a realistic prospect of it being implemented, if this appeal were to be dismissed.

12. The approved outbuilding would span the full width of the plot, as the outbuilding on site does. The 2 structures would be virtually the same height, with the outbuilding on site being only approximately 15cm taller than the approved outbuilding.
13. However, the approved outbuilding would have a greater depth than the outbuilding on site, with an increased depth of approximately 2.5 metres in comparison. This is a not insignificant amount bearing in mind the residential context. As a result, the approved outbuilding, if built, would be even more out-of-scale in its residential context than the outbuilding on site, and would have a more pronounced overbearing impact when seen from the rear amenity area at No 34.
14. As the implementation of the fall-back position would result in greater harm to the character and appearance of the area and the living conditions of the occupiers of No 34, it merits significant weight in favour of the development under consideration in this appeal.
15. Therefore, in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004 (as amended), as a matter of planning judgement I find that the other considerations indicate that the appeal should be determined otherwise than in accordance with the development plan.

Conditions

16. I have had regard to the conditions suggested by the Council. I have considered them against the advice on conditions set out in the National Planning Policy Framework (the Framework) and the Planning Practice Guidance. As the development has been carried out I have omitted the standard time limit and materials conditions, as these are no longer necessary. A condition is necessary specifying the approved plans, to provide certainty with respect to the development applied for (condition 1).
17. A condition is necessary requiring that the development shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling, to ensure that the plot remains in single residential occupation and to protect the character of the area (condition 2).

Conclusion

18. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be allowed.

Alexander O'Doherty

INSPECTOR