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## Appeal Decision

Site visit made on 20 May 2014

**by J J Evans BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 5 August 2014**

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**Appeal Ref: APP/X5210/A/14/2215661**  
**76 Canfield Gardens, London NW6 3ED**

- 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 George Kyriacou against the decision of the Council of the London Borough of Camden.
  - The application Ref 2013/8210/P, dated 20 December 2013, was refused by notice dated 11 March 2014.
  - The development proposed is the "part retrospective application for elevational alterations to and retention of existing outbuilding ancillary to main residence at Flat 1, 76 Canfield Gardens".
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Planning permission was granted in 2008 for a single storey outbuilding for use in association with the ground floor flat of 76 Canfield Gardens. However, a two storey outbuilding has been constructed on site, and there have subsequently been a number of withdrawn and refused applications that have sought mostly changes to the external appearance of the outbuilding. I note the Council has served an Enforcement Notice on the appellant, seeking the removal of the existing outbuilding or its rebuilding in accordance with the 2008 permitted scheme.
3. At the time of my visit, the outbuilding was being occupied as a dwelling, albeit ancillary to Flat 1. However, whilst I note the Council is concerned about the use of the outbuilding as a self-contained dwelling, the application before the Council was seeking approval for elevational alterations, and the retention of it ancillary to the main residence at Flat 1. Therefore for the avoidance of doubt, my determination of the appeal is based on the development as referred to on the planning application form. It would be for the Council to consider any subsequent action it may wish to undertake in respect of the use of the outbuilding.
4. The appellant has produced a legal agreement, albeit a draft, restricting any occupiers of the outbuilding from applying for car parking permits. However, the agreement has not been completed and signed. As such, I have not taken it into account in my consideration of the appeal.

## **Main Issues**

5. The main issues are firstly, the effect on the living conditions of the occupiers of nearby properties with particular regard to disturbance (including noise and light spillage), privacy, outlook, and loss of daylight; secondly, the adequacy of car and cycle parking arrangements; and thirdly, whether the building would be sustainable development, with particular regard to building and accommodation standards.

## **Reasons**

### *Living Conditions*

6. The appeal property lies within the South Hampstead Conservation Area, which is a predominantly residential area comprising a mix of mostly houses of similar ages and styles. The properties along Canfield Gardens are large and tall detached and semi-detached houses that are set back from the road behind short front gardens, many of which provide off-street parking spaces. The houses are closely spaced along the road, and their rear gardens are of a generous size. Due to the presence of several mature trees within them, there is a verdant character and appearance to the area. Most of the rear gardens are bounded by hedges, walls and fences.
7. Like many of the other houses in the area, No 76 has been converted into flats. Flat 1 is on the ground floor and its occupiers have exclusive use of the rear garden. The detached outbuilding lies at the end of the garden, which is mostly laid to lawn. There is also an area of shrubs and trees separating the lawn from the paved area in front of the outbuilding.
8. The Council and local residents have raised concern regarding the impact of the outbuilding on the living conditions of the occupiers of neighbouring properties. The size of the outbuilding, and its end of garden location very close to the boundaries of the neighbouring gardens, means that it is visible from the surrounding properties.
9. The appellant stresses that the use of the outbuilding is ancillary to the main house, that noise disturbance is a matter for other legislation to control, and that the appellant intends to move back into the flat and use the outbuilding as an artist's studio.
10. Notwithstanding the intentions of the appellant, future occupants of the property may choose to use the building in ways other than as an artist's studio. The size of the outbuilding would allow it to be used by a number of people at any one time, and would increase activity and disruption. The rooflights and tall windows to the outbuilding would result in an intrusive level of illumination at the rear of the garden, which would be an incongruous feature within the area. The size of the outbuilding, and the consequential potential for intense use would be detrimental to the living conditions of the occupiers of the neighbouring properties, particularly with regard to disturbance, light spillage, and noise.
11. Local residents are concerned that the outbuilding harms their privacy, and outlook over the rear gardens in the area, and I note the comments of several residents that the plants on the green roof of the outbuilding have not successfully established. However, although the outbuilding may result in some loss of privacy to the occupiers of neighbouring properties, the provision

of windows only to its front elevation, combined with the depth of the garden, provides sufficient separation to protect the outlook and privacy of the occupiers of the neighbouring properties.

12. Concern has also been raised as to the loss of light to neighbouring properties. However, due to the height and position of the outbuilding, and the presence of the existing walls and fences bounding the rear gardens, the effect of it reducing levels of daylight and sunlight to neighbouring properties is limited. The degree of harm would not, therefore, be so serious as to justify dismissing the appeal on this point alone.
13. I therefore find that the outbuilding would unacceptably harm the living conditions of the occupiers of neighbouring properties with particular regard to disturbance, noise, and light spillage. It would conflict with the requirements of Policy DP26 of the Camden Development Policies 2010 – 2025 Local Development Framework (2010) (DP) that seeks, like an objective of the National Planning Policy Framework (the Framework), a good standard of amenity for all existing and future occupants of land and buildings.

#### *Car and Cycle Parking*

14. The Council consider the building to be a self-contained residential unit, and that it should be car-free development, with safe and secure cycle storage. The outbuilding lies within a residential area where on-street parking is controlled by residents parking permits, and local residents are concerned that the use of the outbuilding as a dwelling would cause further parking stress and congestion in the area.
15. However, the appellant has pointed out that the ground floor flat is currently entitled to two parking permits, and that this would adequately meet the parking needs of both the main dwelling and the outbuilding. Under the requirements of DP Policy DP18 I note the issue of on-street car parking permits is in the control of the Council. The ancillary nature of the outbuilding would require any additional parking permit requests to be assessed by the Council as part of Flat 1's entitlement.
16. A further matter for the Council is the provision of safe and secure cycle parking within the site. Parking provision for three bikes has been shown on the submitted drawings, and the Council considers further details could be controlled by condition. Policy CS11 of the Camden Core Strategy 2010 – 2025 Local Development Framework (2010) (CS) and DP Policy DP17 promote sustainable transport, and seek to resist development that would be dependent on travel by private motor vehicles, whilst Camden Planning Guidance 7 – Transport (2013) details the triggers for cycle parking provision. In this instance, the building does not involve the creation of a dwelling, nor would it significantly increase the demand for people to cycle to the site as it would be used ancillary to the main flat. Whilst sustainable transport is to be encouraged, the use of the outbuilding would be ancillary to the flat, and as such I do not consider it would necessitate the provision of cycle parking as required by CS Policy CS11 and DP Policy DP17.

#### *Sustainable Development*

17. The application was not supported with an assessment for the Code for Sustainable Homes nor a lifetime homes statement, requirements under

DP Policies DP22 and DP6. Nor does the building meet the minimum residential accommodation standards required under CS Policy CS6, and the Camden Planning Guidance 2: Housing. Although I have not been provided with a copy of this Guidance, extracts from it have been included in the officer's report, and I note it is considered that the outbuilding would fail to satisfy both its space and light requirements for a home. However, the building is to be used ancillary to Flat 1, and is not proposed for use as a separate dwelling. Whilst I note the concerns of the Council, in this instance these standards would not be applicable to an ancillary outbuilding.

### **Other Matters**

18. Local residents are concerned that the outbuilding has a harmful impact on the South Hampstead Conservation Area. The Conservation Area is an extensive Victorian residential suburb, comprising a number of large detached and semi-detached houses embellished with a variety of decorative architectural details. The South Hampstead Conservation Area Appraisal and Management Strategy (2011), also refers to the verdant character and appearance of the area, formed by the houses being set back from the roads behind front gardens, with generous sized rear gardens. The basement of the outbuilding would largely be concealed from public view. The relatively small scale of the outbuilding compared to the size of the surrounding houses, would preserve the heritage significance of the Conservation Area.
19. I have also considered the concerns of local residents that the grant of planning permission would set a precedent for other similar developments, and the appellant has referred me to the basement extensions of neighbouring properties. However, these are extensions to the main house, and not directly comparable to the proposal before me. Furthermore, each application and appeal must be treated on its individual merits, in accordance with the requirements of the development plan and all other material considerations.
20. Concerns have been raised that the basement could increase localised flooding and cause subsidence. The application was supported with a basement impact assessment that concluded the outbuilding was unlikely to alter existing ground water movement, or the site's drainage. In the absence of any technical evidence to support the concerns of the residents, and noting the absence of objection from the Council on this matter, I have no substantive evidence before me that there would be an unacceptable impact on flooding and subsidence within the area.
21. I understand from local residents that there have been several instances of crime, some of which are alleged to have been associated with the construction of the outbuilding. Notwithstanding this, I have no evidence before me that the use of the outbuilding would significantly increase levels of crime in the area, and as such this has had little bearing on my consideration of the main issues.
22. Local residents are also concerned that the outbuilding could harm property values and increase insurance premiums. However, a basic premise of the planning system is that it is concerned with the use of land in the public interest, not the protection of private interests.

23. Finally, concerns regarding the Council's handling of the application relate to procedural matters and have no bearing on my consideration of the planning merits of the case.

24. When considered either separately or together, none of these other matters outweighs the harm I have found on the living conditions of the occupiers of nearby properties.

**Conclusion**

25. For the reasons given above and having considered all other matters raised, the appeal is dismissed.

*J J Evans*

INSPECTOR