

## Appeal Decision

Site visit made on 25 January 2017

**by G Powys Jones MSc FRTPI**

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

**Decision date: Friday 3 February 2017**

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**Appeal Ref: APP/G5180/D/16/3164322**

**21 Kingswood Avenue, Bromley, Kent, BR2 0NT**

- 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 & Mrs S Brannelly against the decision of the Council of the London Borough of Bromley.
  - The application Ref DC/16/03442/FULL6, dated 19 July 2016, was refused by notice dated 9 September 2016.
  - The development proposed is the demolition of existing detached double garage and construction of a new detached garage with gym room above.
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### Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing detached double garage and construction of a new detached garage with gym room above at 21 Kingswood Avenue, Bromley, Kent, BR2 0NT in accordance with the terms of the application Ref DC/16/03442/FULL6, dated 19 July 2016, subject to the conditions set out in the attached Schedule.

### Main issue

2. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

### Reasons

3. The appeal property is set within a pleasant residential area on a corner plot at a point where Kingswood Avenue turns at about 90°. The plot has a long side frontage onto the Avenue and the dwelling has a generously sized garden, being 'L' shaped at the rear. A single storey double garage standing next to the house at 23 Kingswood Avenue would be demolished. The replacement building would be built in roughly the same spot.
  4. However, the dimensions shown on the annotated submitted plan show that the replacement building would be deeper, wider and higher than the garage replaced. This is not surprising given that the replacement building would have a first floor. The first floor would be used as a gym, with garaging below.
  5. Despite the increase in size and height, I consider that the proposal would not give rise to the harm alleged by the Council for the following reasons. In oblique views from the south the building would be well screened by the planting and vegetation growing in the appeal property's rear garden. From the north, most of the building would be masked by the bulk of No 23, a two storey dwelling, higher than the proposed building. Even where it could be
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seen, the building would be perceived as being of an appropriate scale, consonant with that of nearby buildings. Moreover, sufficient space is available around the proposed building to ensure that the development could not reasonably be regarded as cramped or congested. Finally, the design of the building's appearance is acceptable, reflecting the surrounding suburban architecture.

6. The Council regards the proposal as something of a '*Trojan Horse*', and express concern that it may be used as living accommodation and possibly severed and used as a separate dwelling. I share the appellant's view that planning permission would be required for such a proposal, and if such a proposal were pursued, it should be considered on its merits. The use of the building may be appropriately regulated by condition, as discussed later.
7. I conclude that the proposed development, when complete, would sit acceptably in its visual context and would therefore not conflict with those provisions of policies BE1 & H8 of the Council's Unitary Development Plan requiring development not to detract from the street scene or adversely impact on local character.

### **Conditions**

8. The Council suggest a condition requiring the materials to be used on the external faces of the development to match those of the existing dwelling. This would be at odds with the appellant's intentions set out in the application form and submitted drawing. I find the appellant's proposals with regard to materials to be perfectly acceptable in visual terms, and the Council's proposed condition in this regard is therefore unjustified and unnecessary.
9. A condition is necessary to regulate the future use of the outbuilding, in the interests of certainty, and to properly reflect the purpose of the proposal. I am also concerned that were the building used as ancillary living accommodation, there is a prospect of neighbouring gardens being unacceptably overlooked to the rear through the proposed first floor dormers. The use of the first floor as a gym would prove far more transient than if it were used permanently as living accommodation.
10. In the interests of certainty, it is also necessary that the development is carried out in accordance with the approved plans.
11. All other matters raised in the representations have been considered and taken into account but no other matter raised is of such strength or significance as to outweigh the considerations that led me to my conclusions.

*G Powys Jones*

INSPECTOR

### **Schedule of Conditions**

1. The development hereby permitted shall begin not later than three years from the date of this decision.

2. Save as otherwise provided in the accompanying conditions, the development hereby permitted shall be carried out in accordance with the following approved plan: 2727-16-PL001 Rev P5.
3. The garage with gym room above hereby permitted shall not be used or occupied at any time other than for purposes ancillary to the use of the dwelling known as 21 Kingswood Avenue, and shall not be used as living accommodation.