

Appeal Decision

Site visit made on 12 August 2019

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th August 2019

Appeal Ref: APP/R5510/D/19/3231472

50 Moray Avenue, Hayes UB3 2AX

- 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 Amardip Dhami against the decision of the London Borough of Hillingdon Council.
 - The application Ref 8788/APP/2019/1229, dated 8 April 2019, was refused by notice dated 30 May 2019.
 - The development proposed is retention of outbuilding; removal of kitchen from the outbuilding.
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Decision

1. The appeal is allowed and planning permission is granted for the retention of the outbuilding at 50 Moray Avenue, Hayes in accordance with the terms of the application, Ref 8788/APP/2019/1229, dated 8 April 2019, subject to the following condition:
 - 1) The development hereby permitted shall be retained in accordance with the following approved plans: OS extract and XEVA/50MA/101A-104A.

Main Issue

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

Procedural Matters

3. The building has already been erected and the kitchen has been removed and is not shown on the plans. The development is therefore to retain the outbuilding. Whilst there are some minor discrepancies with regard to window details between the plans and the building, these do not materially change the proposal. I have however considered the development on the basis of the plans submitted.
 4. The Council have raised concerns that the building could be used as a separate dwelling given that it is of a size that would provide bedroom, living room, kitchen and bathroom accommodation and could be accessed by the gate in the wall which leads directly to the public footpath. Whilst there is no doubt that the accommodation could be used as a separate dwelling, this is not being proposed and would require formal planning approval. I have therefore considered the development on the basis of the application submitted which is for ancillary accommodation to the dwelling.
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Reasons

5. The building extends across the entirety of the large rear garden of this property. It is 2.6 metres in height at its highest point and it has a relatively flat roof. The full extent of the width of the building is not clearly apparent from the public domain. The side elevation forms part of the side boundary which adjoins the public footpath which runs to the side of the property. The structure has the appearance, depth and height of a domestic outbuilding and it does not detract from the residential character of this area.
6. The Council suggest that it is no subordinate to the main house given the size of the overall footprint. However, the house is of two storeys whilst the outbuilding is single storey with a flat roof. It is also located a significant distance from the house. It does therefore appear as a subordinate structure and its size is also limited in comparison to the area of the retained garden. Although it has a simple utilitarian design, this is appropriate for its position and function. It does not conflict with the design aspirations of policy BE1 of the Hillingdon Local Plan: Part One-Strategic Policies 2012 or policies BE13, BE15 or BE19 of the Hillingdon Local Plan Part Two-Saved Unitary Development Plan Policies 2012. As these policies generally accord with the design requirements of the National Planning Policy Framework, I afford them considerable weight.
7. The Hillingdon Local Plan Part Two-Development Management Policies is a long way towards completing the process leading to adoption and as a result, the relevant policies can be afforded weight in the decision process. Policy DMHD 2 requires that the footprint of the building must be proportionate to the dwelling and the residential curtilage; and advises that primary living accommodation such as a bedroom, bathroom or kitchen will not be permitted. The supporting text is clear that the Council will aim to safeguard the character and appearance of an area and the amenity of local residents from inappropriate development, such as 'beds in sheds'. It goes on to advise that the Council will strongly resist proposals for detached outbuildings which are considered to be capable of independent occupation from the main dwelling which effectively constitute a separate dwelling in a position where such a dwelling would not be accepted. As a general guide, it advises that an outbuilding should be no greater than 30 square metres and should not significantly reduce private amenity space or the landscape and ecological value of the garden.
8. The kitchen element within the building has been removed and I consider that the bathroom is ancillary to the use of the building as a home gym, rather than being an additional primary bathroom to the house. The overall size of the footprint exceeds the ground floor area of the two storey dwelling but it accommodates all the outdoor storage requirements of the garden and is of limited scale with regard to the size of the garden overall. The garden is larger than those of the surrounding properties and the scale of the building reflects this greater size. It does exceed the guidance for the floor area recommended by the supporting text to the policy. It does not however result in harm to the character or appearance of the area or the amenities of neighbouring residents. Although the development is at odds with some of the supporting text and is of a size that could be used for independent living, I do not find overall that it would conflict with the detailed requirements of the policy. Whilst the scale of the building is a matter that results in some weight against the proposal, I am

- also mindful that the same building, with a roof height 10cm lower, would not have required formal consent.
9. The Council has adopted a Supplementary Planning Document entitled Hillingdon Design and Accessibility Statement: Residential Extensions 2008 (SPD). This sets out requirements for outbuildings. The position of the building close to the rear boundary, together with its limited height and depth, does not result in harm with regard to the outlook from neighbouring properties. It does not result in a significant increase in shading due to its limited height and position. As it is single storey, the windows do not result in overlooking concerns. It also retains a large area of garden. Although the SPD requires that buildings be set in from the boundary by at least 500mm, which is not the case, the development would satisfy its other requirements. Generally, I find support from the guidance for the development.
 10. Whilst I have considered the concerns raised by the Council, I am not satisfied that the development detracts from the character or appearance of the area. It also has no significant impact on the residents of the neighbouring properties. Whilst it is of a size capable of other uses, its current use as ancillary accommodation does not result in unacceptable concerns. Use as a separate dwelling would require planning permission and can therefore be controlled by the Council. Whilst its size and position set it at odds with some elements of the SPD and the supporting text of the emerging local plan policy, I have not found that the proposal would result in unacceptable harm, conflict with the development plan or be at odds with the overall requirements of the SPD.
 11. On balance, I conclude that the lack of conflict with the development plan and the benefits of the proposal to the appellant, in the provision of ancillary accommodation and storage, are sufficient to outweigh the limited conflict identified with the SPD and the supporting text of the emerging policy which does not yet benefit from full weight. I therefore allow the appeal.
 12. As the development is complete, a commencement condition is not required. Although the fenestration is not entirely consistent with that shown on the plans, this difference is not material. I have therefore listed the plan numbers submitted in the interests of certainty. As the works have been completed to a satisfactory standard, conditions with regard to materials are also unnecessary.

Peter Eggleton

INSPECTOR