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## Appeal Decision

Site visit made on 23 July 2019 by Ifeanyi Chukwujekwu BSc MSc PIEMA RTPI (Assoc)

**Decision by Mr A U Ghafoor BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 30 August 2019**

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**Appeal Ref: APP/J1535/W/19/3228269**

**2 Gladstone Road, Buckhurst Hill, Essex IG9 5SW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mrs Dorota Marcewicz against Epping Forest District Council.
  - The application Ref EPF0360/19, is dated 8 February 2019.
  - The development proposed is increasing height of outbuilding so DPC is just above the ground in all places.
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### Decision

1. The appeal is allowed, and planning permission is granted for increasing height of outbuilding so DPC is just above the ground in all places, at 2 Gladstone Road, Buckhurst Hill, Essex IG9 5SW in accordance with the terms of application Ref EPF0360/19, dated 8 February 2019 and subject to the schedule of conditions attached to this Decision.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Procedural Matters

3. This is an appeal against the Council's failure to make a timely determination. The Council have conceded that, subject to the imposition of suitably worded conditions, it would have approved the application, but I will assess the merits of the appeal nonetheless. The representations suggest the concern relates to character and appearance and neighbours' living conditions.

### Main Issues

4. The effect of the proposal upon: 1) character and appearance of the street scene and 2) nearby residents' living conditions having regard to overshadowing.

### Reasons for the Recommendation – *Character and appearance*

5. No. 2 is a two-storey dwelling house with a detached garage. The outbuilding which is the subject of the appeal is located between the host property and the detached garage. It is located on the south-east of Gladstone Road. The surrounding area is residential in character with a mix of terraced or detached two-storey dwellings sited close to the road along well-defined building lines. There is a prevailing character of

hipped roof design in the area. Gladstone Road slopes downwards towards Russell Road in a south-eastern direction, and roof and floor levels are stepped down as a reflection of this.

6. The increase in height of the outbuilding would not be considered out of keeping with roof levels in the area and would not appear out of place. The roof design would also be hip design which would be in keeping with the prevailing character of the area.
7. The Council has expressed concern about the outbuilding's future use. The fear is that, given the planning history<sup>1</sup> the outbuilding may be used as a dwelling-house. A self-contained residential use of the outbuilding would harm the character of the street scene given the siting and position of the structure. However, the Council acknowledge this matter could be addressed by imposing a suitably worded condition stipulating an incidental use of the outbuilding. I agree that, subject to the imposition of a condition, the development would be acceptable in planning terms as the outbuilding's use would be linked to the use of the host building as a dwelling-house.
8. I find that, subject to the imposition of suitably worded condition, which will be addressed later, the proposal would not harm the character and appearance of the surrounding area. Accordingly, subject to conditions, the development would comply with policies CP2(iv), CP7 and DBE1 of the Epping Forest Local Plan (1998).

#### *Living conditions*

9. The occupant of no.4 Gladstone Road has raised concerns regarding the effect of the proposal on living conditions with regard to light. However, the outbuilding is on the other side of the host property at no.2. It would also be at the same depth with the host property at the rear, and No.4 reaches further in depth at the rear. It is not considered that the proposal would have any effect on the living conditions of occupants of no.4 with regard to light.
10. In assessing the effect on living conditions of subsequent planning application<sup>2</sup> for the change of use from existing playroom to single storey one-bedroom dwelling, the Council's reason for refusal was with regards to the effect on living conditions of future occupants in terms of cramped accommodation. A previous appeal decision<sup>3</sup> addressed effects of a separate dwelling on the occupants of 63 and 65 Russell Road. No concerns were raised regarding any effect on occupants of 4 Gladstone Road. In any case, the proposal before me would not result in the creation of a separate dwelling, and the design is materially different.

#### **Conditions**

11. As stated above, the Council have suggested that they were prepared to support the proposal as a domestic outbuilding the use of which would be controlled by condition. A suitably worded condition can be imposed to stipulate that the outbuilding shall only be used for incidental purposes. To ensure that the development is constructed in accordance with the approved drawings, a condition is necessary. In the interests of

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<sup>1</sup> Council refs: EPF/1213/16 Proposed detached house at side – refused, EPF/2907/16 Resubmission – proposed detached house at side – refused, Appeal dismissed (APP/J1535/W/17/3166818), EPF/2032/17 New build detached chalet style bungalow on land adjacent – refused, Appeal dismissed (APP/J1535/W/17/3186518), EPF/0339/18 Two storey and single storey side and rear extension – refused, Appeal Dismissed (APP/J1535/D/18/3204686), EPF/2531/18 Lawful Development Certificate for proposed detached playroom – not lawful, EPF/3062/18 Resubmission - Lawful Development Certificate for proposed detached playroom – lawful, EPF/1117/19 - change of use from existing playroom to single storey one bedroom separate dwelling'.

<sup>2</sup> Council ref: EPF/1117/19.

<sup>3</sup> Appeal refs: APP/J1535/W/17/3166818 and same prefix ending with 3186518.

the character and appearance of the host property and area, a condition is necessary controlling external materials.

12. The Planning Practice Guidance indicates permitted development rights should only be removed in exceptional circumstances. The suggestion is that rights for the erection of outbuildings under Class E to Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 as amended should be removed. The argument is that, given local plan policy and the site's history, a condition should be imposed to prevent future outbuildings and extensions that would increase the approved outbuilding size and/or impact negatively on the amenity of neighbouring residents. Due to the limited area of the appeal site, such exceptional circumstances exist to justify the removal of the permitted development rights for Class E. I will impose a condition removing these rights.

### **Conclusion and Recommendation**

13. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

*Ifeanyi Chukwujekwu*

Appeals Planning Officer

### **Inspector's Decision**

14. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal should be allowed subject to conditions below.

*A U Ghafoor*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: unnumbered site location plan, existing plans and elevations and proposed plans and elevations.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) The building hereby permitted shall be used only for purposes incidental to the dwelling-house at 2 Gladstone Road and shall not be used as a living or sleeping accommodation whatsoever without prior consent of the Local Planning Authority.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the 'Order'), (or any other order revoking, further amending or re-enacting that Order) no additional development generally permitted by virtue of Class E of Part 1 of Schedule 2 to the Order shall be undertaken without prior written permission of the Local Planning Authority.