



Appeal Decision

Site visit made on 1 September 2020 by S Watson BA(Hons) MSc MRTPI

Decision by R C Kirby BA(Hons) DipTP MRTPI

An Inspector appointed by the Secretary of State

Decision date: 9 October 2020

Appeal Ref: APP/P4605/D/20/3253162

348 Walsall Road, Perry Barr, Birmingham B42 2LY

- 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 Mohammad Umar against the decision of Birmingham City Council.
 - The application Ref 2020/00389/PA, dated 16 January 2020, was refused by notice dated 9 April 2020.
 - The development is described as an existing detached rear outbuilding to be used as an annex living accommodation.
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Decision

1. The appeal is allowed, and planning permission is granted for an existing detached rear outbuilding to be used as an annex living accommodation at 348 Walsall Road, Perry Barr, Birmingham B42 2LY in accordance with the terms of the application, 2020/00389/PA, dated 16 January 2020 subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the approved plan No L(2-)01.

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 Matter

3. The description from the planning application form was not clear and so I have used the description from the appeal form as this is more concise.

Main Issue

4. The main issue in this case is the effect of the scheme on the character and appearance of the surrounding area, particularly in respect of the building's use.

Reasons for the Recommendation

5. The appeal site is on the West side of Walsall Road and contains a detached dwelling set in a long linear plot. At the bottom of the garden is a single storey outbuilding which was granted permission to be used as a gym, office and store area. At the time of my site visit I observed that the outbuilding contained a bedroom, shower room, kitchen/living room and an office.
6. The property has associated planning history which includes an appeal decision relating to enforcement against the use of the outbuilding as a self-contained residential unit (appeal ref: APP/P4605/C/19/3221667 and 3221668). I have considered the previous Inspector's findings and their decision, based on the breach of conditions 2 and 3 of permission 2015/02538/PA, to uphold the enforcement notice. The Council have predominantly based their case on the previous Inspector's decision, and I acknowledge the importance of consistency in these matters. However, that appeal concerned amongst other matters the residential use of the building separately from, and not incidental to the host property. The proposal before me is to use the building as an annex to the host property and I have therefore assessed this proposal on its own merits.
7. In terms of the building's external appearance, it appears that the building is broadly similar to that which the Council found acceptable when it granted planning permission under 2015/02538/PA. The Council has not raised concern about the building per se, rather its intended use. Having regard to the character and appearance of the area, which includes a number of outbuildings within the rear garden environment, I find that the proposed single storey building, whilst larger than nearby outbuildings, is subservient to the main house and has left a reasonable sized rear garden for the host property. Accordingly, I find that the building in itself is not harmful to the character or appearance of this residential area.
8. In terms of the use of the building I note the Council's concern about the building being occupied independently. However, the proposal before me is not for a separate self-contained residential unit within a separate planning unit.
9. Whilst the provided rooms would offer all the facilities needed for a separate dwelling, their overall size is small and the level of facilities they provide are basic, which is what would be expected for accommodation that is ancillary to the main dwelling. No separate curtilage is proposed and no separate access independent of the host dwelling is indicated. Indeed, it appears from my observations that in order to access the outbuilding, occupiers of it would need to pass through the host property because there is no external access to it from either the front or rear. The outbuilding is close to the rear of the host property and its rear windows and there is a strong visual link and relationship between the dwelling and outbuilding, including the rear garden.
10. Although there is an access lane to the rear of the outbuilding, it is separated from the appeal site by a high wall and did not include any gates or other means of access. I have no evidence before me to demonstrate that the appellant has a right of way over the lane, or that it could be used as an independent access to the outbuilding.
11. As such I find that there would be little realistic prospect of the building being used for living accommodation other than as proposed. An annexe, even in a separate building, is normally regarded as part and parcel of the main

dwellinghouse use and on the basis of the evidence before me, I have no reason to find that it would not be occupied as such. A separate residential use of the outbuilding and the creation of a separate planning unit would be likely to require planning permission in any event.

12. In light of the foregoing I conclude that the appeal development respects the character and appearance of the surrounding area, in accordance with Policy PG3 of the Birmingham Plan 2031: Birmingham Development Plan which expects development to reinforce a positive sense of place and local distinctiveness.

Other Matters

13. I note the concerns raised that the development is harmful to the privacy of nearby occupiers. Although located within the rear garden environment, and having regard to the design of the outbuilding and its fenestration taken with the existing tall party boundary treatment, no loss of privacy is likely to have resulted to nearby occupiers, to the degree that would make their properties and gardens less pleasant use.
14. The Council have raised a concern about setting a precedent for future commercial uses and activities within the rear gardens of surrounding properties. The appeal before me does not relate to a commercial use and moreover, all proposals must be considered on their own merit. A generalised concern of this nature does not provide good reason for preventing development such as that before me.
15. Although some concerns have been raised regarding the way in which the application has been dealt with, no substantive evidence has been submitted to demonstrate this. As a result, I give this matter little weight.

Conditions

16. The Council has suggested conditions it would wish to see imposed in the event that the appeal was allowed. I have considered the suggested conditions against the advice on conditions set out in the Framework and the Planning Policy Guidance.
17. I find that to ensure clarity a condition is necessary requiring that the development is carried out in accordance with the approved plans. However, as there are no external changes to the building, I find it unnecessary for a condition to be attached requiring materials matching the existing building. Moreover, as the development has already been carried out it would not be necessary to attach the standard three-year time condition.
18. I have considered whether a condition restricting the use of the building, to a residential annex, would be necessary. However, given my findings and that the proposal would not be readily severable from the main dwelling, I find that such a condition is not necessary in this case.

Recommendation

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

S Watson

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and concur that the appeal should be allowed.

RC Kirby

INSPECTOR