



## Appeal Decision

Site Visit made on 10 November 2020

**by Rachael Pipkin BA (Hons) MPhil MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25<sup>th</sup> November 2020**

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**Appeal Ref: APP/G5180/D/20/3258965**

**89 Hayes Wood Avenue, Hayes, Bromley BR2 7BQ**

- 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 Michael and Tee Dennis against the decision of London Borough of Bromley.
  - The application Ref DC/20/01174/FULL6, dated 23 March 2020, was refused by notice dated 15 June 2020.
  - The development proposed is described as "This application relates to the proposed extension of the existing two-storey outbuilding and all associated works to provide a single bedroom outbuilding for use of elderly relative at 89 Hayes Wood Avenue, Bromley, London. The purpose of the building is to allow the elderly relative to be able to live and be cared for, the future use of the building can include a home office or gym. The building is within the land at 89 Hayes Wood Avenue and will never be used as a separate dwelling."
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - the effect of the proposed development on the character and appearance of the surrounding area;
  - the effect of the proposed development on the living conditions of occupiers of neighbouring properties, with particular regard to the potential to appear overbearing and increase overlooking; and
  - whether or not the proposed development would amount to a separate dwelling.

### Reasons

#### *Character and appearance*

3. Number 89 Hayes Wood Avenue (No 89) is a semi-detached house in a residential street of similar properties. The area is characterised by linear residential development set behind front gardens which have a street frontage. The gap between pairs of properties provides views between the houses into the rear gardens beyond. The appeal property has a long rear garden which opens out into a further and substantial area of garden which contains a number of outbuildings. This garden area extends across the rear of several gardens to properties fronting Hayes Wood Avenue.

4. At the end of the long section of garden and broadly aligned with the rear boundaries of neighbouring gardens, there is a narrow two-storey outbuilding with a gable ended pitched roof providing a garage with storage space above and a rear facing first floor balcony accessed by an external staircase. The proposed development would extend the two-storey outbuilding, enlarging its footprint and removing the external staircase and balcony.
5. The existing outbuilding is visible above the boundary fence to the rear garden and through the gap between No 89 and the neighbouring property at Number 87 (No 87). As there are no similar forms of development in the vicinity, the existing building appears anomalous. Its extension to form a larger building, whilst a similar height would be retained, would result in a more bulky form of development. This would increase its physical presence and make it more visually prominent which detract from the character and appearance of the area. The proposed enhancement to its external appearance would not overcome this harm.
6. The outbuilding could be accessed from the gate to the rear garden, through the host property and from a separate access leading to the rear garden between Numbers 91 and 93 Hayes Wood Avenue (Nos 91 and 93). Due to the availability of these alternative accesses, the proposed living accommodation would not be reliant on access through the host dwelling. The use of the building for living accommodation, would increase the frequency of comings and goings to a building within the back garden which would be entirely independent of the host property. This would be out of character with the more conventional arrangement of residential development along Hayes Wood Avenue.
7. I conclude the proposed development would significantly harm the character and appearance of the surrounding area. It would therefore conflict with Policies 4, 6 and 7 of the Bromley Local Plan 2019 (BLP). These policies together require development to be a high standard of design that respects local character and respects and complements the main dwelling in terms of design, scale and form. It would also not accord with Policy 7.4 of the London Plan 2016 which similarly seeks a high quality of design that makes a positive contribution to character.

#### *Living conditions*

8. The proposed building would be positioned at the end of the main garden and adjacent to the shared boundary with No 87 and very close to the shared boundary with No 91. These adjoining gardens are modestly sized. The enlargement of the existing building close to these boundaries would significantly increase its bulk, which would make it appear visually dominant and intrusive when viewed from these neighbouring gardens. This would be both overbearing and oppressive to these occupants.
9. The proposed living room would be at first floor level, served by front and rear facing windows. The window in the front elevation would have views into the rear gardens of nearby properties at Nos 85, 87 and 91 which would increase overlooking of the private garden space of these properties. The existing building is similarly served by a first floor window. However, as it is not used for residential purposes and not occupied only a daily basis any harm arising from the existing window would be significantly less than from the appeal proposal.

10. I conclude the proposed development would harm the living conditions of nearby neighbours through its overbearing effect and increased overlooking. The referenced policies set out in the decision notice are not relevant to these matters. Notwithstanding this, the proposed development would not accord with paragraph 127 of the National Planning Policy Framework (the Framework) which seeks to ensure that developments create places with a high standard of amenity for existing users.

*Separate dwelling*

11. The appellants have indicated that the proposed building would be ancillary to the host property and not used as a separate dwelling. The proposed accommodation is intended for an elderly relative who has limited mobility and requires care. It is intended that its future use would be as a gym or home office.
12. The Council is concerned about the formation of self-contained residential units which could potentially be severed from the main dwelling as this can sometimes result in the creation of substandard accommodation. In order to prevent this, Policy 7 of the BLP requires that extensions for additional family members will be expected to meet a number of criteria including that it cannot be severed from the main dwellinghouse and that access to it is provided and maintained through the original dwelling.
13. The proposed development would provide living accommodation comprising a ground floor bedroom and bathroom with a living area and kitchen at first floor level. A parking space would also be provided to the front of the host dwelling. The outbuilding is separate from the host dwelling and indicated to be around 15 metres from it.
14. The proposed accommodation would provide all the facilities required for day-to-day living to enable it to function as a self-contained unit without any form of dependency on the host dwelling. However, this alone does not necessarily mean it becomes a separate planning unit from the host property. This is a matter to decide on a fact and degree basis.
15. There is no physical link between the host dwelling and the outbuilding which could be accessed entirely independently either via the side gate or via the separate access off Hayes Wood Avenue. No evidence has been provided to demonstrate that the occupant of the outbuilding would share her living activity in company with the family in the main dwelling. Moreover, it seems to me that the distance of the proposed accommodation from the host property would make it difficult for an occupant with limited mobility to access the host property, particularly during periods of inclement weather. For these reasons, I find that the proposed development would have no functional relationship with the host property. It would not be ancillary to the main dwelling from which it could be severed. This would be contrary to policy.
16. I have taken into account the appellants' view that a condition to prevent the unit being occupied separately to the dwelling could be imposed. However, the physical form of the building, the facilities it provides, its location in relation to the host property and its means of access, make it capable of severance. In these circumstances, it seems to me that pressure for the building to be used as a separate dwelling could arise at some point in the future.

17. The Framework advises that decision-makers should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. As I have concluded the building would function as a separate unit of accommodation, which would be inappropriate in this location, I find that the imposition of a condition restricting occupation would not make the development acceptable and would not be reasonable in these circumstances. It would also not comply with the tests for conditions set out in the Framework and the Planning Practice Guidance.
18. I conclude the proposed development would amount to a separate dwelling. It would therefore conflict with Policy 7 of the BLP as referred to above.

### **Other Matter**

19. I acknowledge the personal circumstances of the appellants and the intended occupier of the building. I also note the appellants wish to provide accommodation that is within easy reach so they can provide care for their elderly relative. On the evidence before me, I have no doubt the proposal would be of benefit to the appellants' family in meeting their specific accommodation requirements. I have given these personal circumstances very careful consideration, but unfortunately, I do not consider that they outweigh the harm that I have already identified above.

### **Conclusion**

20. For the reasons set out above, I conclude the appeal should be dismissed.

*Rachael Pipkin*

INSPECTOR