
Appeal Decision

Site visit made on 12 October 2020 by Hilary Senior BA (Hons) MCD MRTPI

by Susan Ashworth BA (Hons) BPL MRTPI

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

Decision date: 11 February 2021

Appeal Ref: APP/T5150/D/20/3250859

17 Old Kenton Lane, London NW9 9ND

- 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 Scott Edwards against the decision of the Council of the London Borough of Brent.
 - The application Ref 19/3767, dated 23 October 2019, was refused by notice dated 11 March 2020.
 - The development proposed is "conversion of garage from home gym to ancillary living accommodation for applicant's son. No external alterations proposed."
-

Decision

1. The appeal is allowed and planning permission granted for the conversion of the detached garage into ancillary residential accommodation to dwelling house at 17 Old Kenton Lane, London NW9 9ND in accordance with the terms of the application, and the plans submitted with it, Ref 19/3767, dated 23 October 2019 and subject to the following condition:
 - 1) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 17 Old Kenton Lane, London NW9 9ND.

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.

Preliminary Matter

3. I note that the description of development set out on the application form, and repeated in the banner heading above, differs from that on the appeal form and decision notice. I have used the amended description in my formal decision as it better reflects what is proposed.
4. At the time of the site visit the appeal building had been converted and was in use as living accommodation. I will proceed with the appeal on that basis.

Main Issues

5. The main issues are;

- Whether or not the outbuilding would be used as self-contained living accommodation, and if so
- whether the proposed development would provide acceptable living conditions for future occupants, with regard to privacy, outlook and the provision of private amenity space and
- the effect of the proposal on highway safety, with particular regard to parking

Reasons

Ancillary accommodation

6. 17 Old Kenton Lane lies within a well-established residential area. The property is a detached dwelling with a parking area to the side fronting the highway and an extended detached garage facing it.
7. The proposal is to convert the garage, which has permission for use as a home gym, to ancillary living accommodation. I saw on the site visit that the conversion had already taken place and that the garage was being occupied as residential accommodation. No external alterations to the building are proposed. There is space for the provision of two car parking spaces on the hardsurfacing between the buildings, served by a single vehicular access point from the highway, which is gated.
8. I have taken into consideration the Council's concerns that the building has the internal facilities necessary for it to be occupied to be a self-contained dwelling in that it has a hallway, lounge and kitchen area, bedroom, bathroom and storage area. However, the description of development clearly sets out that the occupation of the unit would be ancillary to that of the host dwelling and would be occupied by family members, the appellant's son in the first instance and at a later date the appellant's parents. I note the personal circumstances of the appellant's family and the need for additional accommodation, including an element of care, in that regard.
9. Whilst the building is physically separate from the host dwelling, the orientation of the former garage, the shared access, parking and manoeuvring areas and the lack of any private garden or amenity area for the building indicate that there is a degree of interdependence between the house and the annex. I have no doubt that given the close relationship between the appellant and the intended occupiers of the building, that facilities within the house will be shared to some degree. On that basis I am satisfied that the residential use of the garage is part and parcel of the use of the primary dwelling.
10. I acknowledge the Council's point that the host dwelling is a substantial property that could potentially provide the required accommodation internally. However, I do not have evidence of that before me. Moreover, it is incumbent on me to determine the proposal as set out. I also note the Council's concern that there is a gate leading directly from the street to the rear of the former garage which could allow the building to be accessed independently, although there is currently no door into the property at the rear. Nevertheless, even though the gate exists, I am unconvinced that it indicates that the intended occupation of the unit would be separate to that of the house.

11. My attention has been drawn to a few appeal decisions which raise similar issues. However, the circumstances of these cases are not directly comparable to the proposal before me which I have considered on its own merits.
12. The appellant has submitted a Unilateral Undertaking to secure the use of the building as ancillary accommodation and I have noted the Council's reservations about it. Nevertheless, I have no reason to consider that the use of the building as ancillary accommodation could not be secured by planning condition and enforced if necessary.
13. The decision notice refers to Policy DMP18 (residential outbuildings) of the Brent Local Plan Development Management Policies 2016 (BLPDMP) which states that 'Planning permission will only be granted for outbuildings that will not be residential accommodation or do not support the increased occupation of a dwelling'. However, this proposal does not seek planning permission for an outbuilding and is not therefore directly relevant to the proposal.
14. On the basis of the evidence before me, the proposal is not contrary to the development plan in this respect.

Living Conditions

15. From all I have seen and read the Council's concern about the standard of living accommodation, with regard to outlook, defensible space and amenity space, is based on the assertion that the building could be occupied separately from the dwelling. Had that been the case I would share the Council's concerns. However, as set out above I am satisfied that the use of the building is ancillary to that of the host property. On that basis, given the shared facilities available to the occupier, including the garden, I am satisfied that the use of the building as proposed provides occupants with a satisfactory standard of living.
16. For this reason, the proposal would not therefore conflict with Policies DMP1 and DMP19 of the London Borough of Brent Local Plan Development Management Policies (2016) and the aims of the Framework which require, amongst other things, high levels of internal and external amenity.

Highway safety

17. According to the Council's parking requirements, the host dwelling requires provision of two parking spaces and an additional residential unit would require an additional space. However, as the proposal is for ancillary accommodation, I do not consider an additional parking space would be necessary.
18. It has been demonstrated that there is sufficient parking space for two vehicles within the site and I note that the parking survey undertaken by the appellant, indicates that there is available on street parking. On that basis, despite the area having a PTAL rating of 2, I am satisfied that the proposal does not result in a danger to highway safety.
19. In this respect therefore, the proposal would be in accordance with policy DMP12 of the London Borough of Brent Local Plan Development Management Policies (2016) which, amongst other things, requires that parking is provided in line with the parking standards.

Other Matter

20. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. From all I have seen and read one of the intended future occupants of the building may have a protected characteristic. Nevertheless, it does not follow from the PSED in itself that the appeal should succeed.

Conditions

21. As the application is retrospective and there are no changes to the external appearance of the garage proposed, the standard time limit and plans conditions are not necessary, although for certainty, I have referred to the submitted plan in the formal decision.
22. However, to ensure that the garage remains as ancillary accommodation in order to ensure a satisfactory standard of accommodation and to protect the character of the area, a condition restricting its use is necessary for the avoidance of doubt.
23. I note that the Council has suggested a condition requiring submission and agreement of a site layout indicating the parking layout and landscaping amongst other things. However, given that the site is occupied as a single planning unit and the hardstanding does not form part of this application, such a condition is not reasonable or necessary.

Conclusion and Recommendation

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

Hilary Senior

APPEAL PLANNING OFFICER

Inspector's Decision

25. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Susan Ashworth

INSPECTOR