



Appeal Decision

Site visit made on 18 May 2021

by **Peter D Biggers** BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2021

Appeal Ref: APP/W5780/D/20/3265223
33 Hollybush Hill, Wanstead, London E11 1PS.

- 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 Tariq Mushtaq against the decision of the London Borough of Redbridge Council.
 - The application Ref, 3128/20 dated 23 September 2020, was refused by notice dated 6 November 2020.
 - The development proposed is construction of an outbuilding in the rear garden.
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Decision

1. The appeal is allowed and planning permission is granted for construction of an outbuilding in the rear garden at 33 Hollybush Hill, Wanstead, London E11 1PS in accordance with the terms of the application, Ref 3128/20 dated 23 September 2020, and subject to the conditions at Schedule A below.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the host building and the surrounding area.
 - Whether the proposed development would have an adverse impact on the living conditions for present and future occupants of neighbouring properties in respect of visual amenity and outlook.

Reasons

Character and Appearance

3. Hollybush Hill, where the appeal site is located, is lined on its east side by large, two storeyed, detached houses in generously sized plots built in a variety of styles. The west side of the road in the vicinity of the appeal site is mainly open and undeveloped.
 4. The rear gardens to the properties on the east side of the road, including that of the appeal site, are well screened and landscaped and bounded at the eastern end by the railway tracks of the Central Line. A line of what appeared to be self-set sycamores extend along the railway embankment on railway land but bordering the rear fence to No 33 and one larger sycamore in the garden of No 32 slightly overhangs the appeal property's garden. Large outbuildings are a feature of many of the rear gardens providing ancillary accommodation for the houses.
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5. The house at No 33 has a large deep footprint and along with its neighbours has a long deep rear garden. The proposed outbuilding would extend the full width of the plot and is designed to align with the front edge of the neighbouring outbuilding. It is proposed to be used as a 'home gym', indoor play area and storage.
6. Although the outbuilding would undoubtedly be large, in the context of the scale of the host dwelling and garden it would remain subordinate to its context and setting. Given the positioning at the foot of the garden the general attractive openness of the garden would not be affected and a large garden area would remain available as private outdoor amenity space. The proposal would be a well-designed building proposed to be finished in materials to match the main house.
7. It has been put to me that the scale and particularly the height of the outbuilding would be excessive exceeding the guidance for outbuildings set out in the *Redbridge Housing Design Supplementary Planning Document (SPD)*. I acknowledge that the eaves height as proposed is slightly higher than the guide limit of 2.5 metres for a pitched roof. However, there are two precedents in nearby gardens which have recently been granted planning permission with similar dimensions. An outbuilding at No 36 was granted permission (ref 1980/19) which extends the full width of the plot and rises to a similar ridge height to that proposed at No 33. More significantly an outbuilding to exactly the same design although not full width was very recently granted permission at No 40 (ref 272/21). Again this building, although with a smaller footprint, has the same eaves and ridge height. Although the depth and width of the appeal proposal is larger than these permitted outbuildings the permissions are material to my consideration and in the context of these the proposed height of the outbuilding would not be excessive.
8. A further concern in respect of character and appearance has been expressed in the second reason for refusal in respect of the potential impact on what are referred to as 'mature trees'. As stated above, from my site inspection it was clear that there were no mature trees within the appeal site that would be affected by the development. The self-set sycamores referred to above within the railway land are semi-mature, do not have a developed canopy and do not overhang the application site to any degree. Moreover, they are at a lower level to the appeal site and it is likely that there would be limited root extension into the garden of No 33. There is one mature sycamore in the garden of No 32 close to the boundary fence with the railway. It overhangs No 33's garden slightly but not to any significant extent. Given the fact that tree root plates will normally extend as far as the canopy it is likely that the tree roots will extend into the garden of No 33 but the positioning of the tree is such that the construction of the outbuilding would be unlikely to result in any significant impact on the tree. It would however be necessary and reasonable to attach a condition in the event the appeal is allowed to secure the protection of the canopy and the root plate and the appellant has indicated that he would agree to such a condition.
9. *Redbridge local Plan (RLP)* Policy LP26 requires that development respects the local character of the area and is well integrated and has regard to and respect for the surrounding area amongst other things. As set out above although the proposed outbuilding would be large it would not be out of scale with its host or with the scale of nearby outbuildings. Other than the guidance in respect of height (for which there are direct precedents) the other advice in respect of outbuildings in the SPD has all been followed. In respect of RLP Policy LP38 protecting trees

and enhancing the landscape, subject to the imposition of a condition to ensure protection of the mature tree in the neighbouring garden, the objectives of the Policy and SPD guidance requiring effective protection measures would be met.

Living Conditions

10. The application was refused in part on the grounds that the development would have an adverse and overbearing effect on visual amenity of neighbours although the case officer's report states that there would be no effect on neighbours outlook. Notwithstanding this anomaly I have considered the effect on living conditions.
11. The proposed outbuilding would be set at the bottom end of No 33's garden backing onto the wall and boundary fence to the railway. There would not be any side windows and the garden is screened on both sides from neighbours by 'head-height' fencing and shrubs. In respect of the relationship to No 34/35 the proposed outbuilding would match the front building line of the garage section of the neighbouring outbuilding and would be similar (slightly higher) in height.
12. In terms of No 32's garden, the area that would be closest to the outbuilding did not appear to be used for sitting out or any particular use and as the outbuilding would be on the north side of the garden there would be no impact on sunlight to No 32.
13. The outbuilding will be visible from neighbouring gardens and from rear facing windows but it would appear as a well-designed garden room with a lightweight glazed frontage which would be an attractive addition to the rear garden setting. Given its positioning at the foot of the garden it would not be overbearing in any neighbour's outlook either from rear windows or main areas of garden. In any event, as stated, there are already large outbuildings of a similar scale at Nos 34/35, 36, 37/38 and permitted at No 40. Therefore, the presence of large outbuildings is a feature of the rear gardens in the vicinity and the impact of the proposal at No 33 would not be significantly different. For these reasons there would be no conflict with either RLP Policy LP26 relating to residential amenity or with the SPD guidance.

Other Matters

14. Being a large outbuilding which would contain a shower and WC to serve the 'home gym' and given that the garden has a side access out to the street on the south side of the house it is important that the use of the outbuilding complies with RLP Policy LP7 (Back Gardens) and is not used as separate, independent sleeping and living accommodation. However, this can be ensured by use of a condition restricting use to purposes ancillary to the main dwelling house and for no other purpose.

Conditions and Conclusion

15. The Council suggested a number of conditions, which I have considered in the light of the advice in the Framework and *Planning Practice Guidance*. A condition requiring development to be carried out in accordance with the submitted plans is necessary in the interest of certainty. In the interests of maintaining the character and appearance of the area it is necessary to attach a condition controlling the materials used in the construction of the outbuilding to ensure they match those used on the main house.

16. The Council did not indicate the need for any other conditions however it is clear from the concerns expressed in the case officer's report and the reasons for refusal and my assessment above that further conditions are necessary.
17. To secure the protection of the mature sycamore tree overhanging part of the proposed site of the outbuilding it is necessary to attach a condition requiring the submission of a tree protection plan and arboricultural method statement. This has to be a pre-commencement condition but the appellant has indicated their acceptance of such a condition in their appeal statement.
18. It is important given the location of the outbuilding and its relationship to the house and given that there is a side access to the garden that at no time is the outbuilding to be used independently to the main house or for any other purpose than a use ancillary to the main house. Again, the appellant has indicated his willingness to accept such a condition.
19. Finally, it will be necessary to ensure that the development does not impact on existing London Underground transport infrastructure adjacent to the site, in accordance with Policy T3 of the *London Plan*. As this must control the development from the start it is essential that this is a pre-commencement condition. The appellant has not commented on this condition but the need for a condition was clearly set out in the case officer's report and in the Council's paperwork accompanying the appeal and therefore its imposition should not come as a surprise to the appellant.
20. I have considered the matters before me and, for the reasons given above, I conclude that the appeal should be allowed and permission granted for the outbuilding subject to the conditions set out in Schedule A below.

P. D. Biggers

INSPECTOR

SCHEDULE A – CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of approval.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 8676/00; 8676/01; 8676/02; 8676/04; 8676/05.
- 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 dwelling.
- 4) No site clearance, preparatory work or development shall take place until a scheme for the protection of the canopy and root plate of the mature tree overhanging the southern end of the outbuilding hereby permitted (the tree protection plan) together with the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction – Recommendations, shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the canopy and root plate of the tree shall be carried out as approved.

5) The outbuilding hereby permitted shall not be used or occupied at any time other than as an annexe ancillary to the residential use of the main dwelling at 33 Hollybush Hill, Wanstead E11 1PS.

6) The development hereby permitted shall not be commenced until detailed design and method statements (in consultation with London Underground) have been submitted to and approved in writing by the local planning authority which:

- Provide foundation details on the construction of the outbuilding and details of roof construction;
- Provide details on the use of tall plant/scaffolding-these should include plant details for lifting roof trusses and or other materials;
- Provide details of any tree works to trees on the boundary and within London Underground land.

The development shall thereafter be carried out in all respects in accordance with the approved design and method statements before any part of the building hereby permitted is occupied.