



Appeal Decision

Site Visit made on 8 June 2021

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 September 2021

Appeal Ref: APP/M5450/D/21/3267463

37 Braithwaite Gardens, Stanmore HA7 2QG

- 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 Ravi Kanthan against the decision of London Borough of Harrow.
- The application Ref P/3119/20, dated 2 September 2020, was refused by notice dated 17 November 2020.
- The development proposed is construction of an outbuilding.

Decision

1. The appeal is allowed and planning permission is granted for the construction of an outbuilding at 37 Braithwaite Gardens, Stanmore HA7 2QG in accordance with the terms of the application, Ref P/3119/20, dated 2 September 2020, subject to the conditions in the attached schedule.

Preliminary Matters

2. Between the determination of the planning application and the appeal coming before me, the London Plan 2021¹ has been adopted by the Mayor. The views of the main parties were sought in relation to this change in circumstance, but no responses were received. The policies referred to by the Council in their decision were Policies 7.4B and 7.6B of The London Plan (2016) and Policies D1 and D4 of the Draft London Plan (2019). The corresponding policies in the new Plan relevant to this appeal are Policies D1, D3 and D4. I have therefore determined the appeal with regard to the adopted development plan at the time I make this decision.
3. A revised Framework² was published by the Government between the determination of the planning application and the appeal coming before me. I am satisfied that this latest version of the Framework does not raise any new considerations in relation to this appeal.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal proposal would replace an existing, smaller sectional outbuilding. It would similarly be positioned on the boundary adjacent to the outbuilding that serves 35 Braithwaite Gardens. The proposed outbuilding although slightly

¹ The London Plan (2021)

² National Planning Policy Framework (2021)

smaller in footprint to that of the outbuilding at 35, would be very similar in terms of its height, set back siting and being partly concealed by the host property when viewed from Braithwaite Gardens.

6. In addition to the loss of the existing outbuilding, the proposal would involve the removal of an existing wooden shed and an area of hardstanding. The remainder of the rear garden would remain unaltered and thus the overall amount of built form/hardstanding would remain similar to the existing situation. I noticed from my site visit that other properties in the vicinity had built rear extensions and outbuildings and this forms part of the character and appearance of the area.
7. Taking all of this into account, the proposal would have limited visibility from the street. Where it could be seen, it would not appear as an over-development or harm the context in which neighbours view the site. Similarly, it would not be out of keeping with the area's overall appearance or the prevailing pattern of development. As a result, the proposal would not cause harm to the character and appearance of the area.
8. Accordingly, the proposal would accord with Policies D1, D3 and D4 of the London Plan, Policy CS1.B of the Core Strategy³ and Policy DM1 of the Local Plan⁴, which amongst other things, seek to ensure that development responds positively to the local context and is of a size, height and position so as to not cause harm to the local area. The proposal would also accord with the Framework, specifically at paragraph 130, which, amongst other things, encourages development that is sympathetic to local character.
9. The reason for refusal refers to the Council's Residential Design Guide⁵ but I have not been provided with a copy. However, this is guidance which should be broadly in line with the development plan policies and as I have found the appeal scheme to accord with these policies, I do not need to see the Design Guide in this instance.

Other Matters

10. The reason for refusal notes that the 'residential amenities of the occupiers of the neighbouring properties' would be harmed in some way but is not more specific. Under the heading 'Residential Amenity', the officer report considers the building's position and its height within the context of the site and the advice of the Design Guide. It goes on to conclude that there would be no harm to the adjoining neighbours. I agree with the reasoning set out in the officer report in this respect.
11. The Council suggests that the outbuilding at 35 Braithwaite Gardens may not have the benefit of planning permission and therefore in itself does not justify allowing other outbuildings in similar positions. However, there is no indication that the Council is likely, or able, to pursue enforcement action in this case. Notwithstanding this, I have considered the proposal on its own merits and even if the neighbour's outbuilding were to be removed, I am satisfied that the proposed outbuilding's height, size and position is such that it would not cause harm to the neighbour at 35 or to the wider area.

³ Harrow Core Strategy (2012)

⁴ Harrow Local Plan - Development Management Policies (2013)

⁵ Supplementary Planning Document: Residential Design Guide (2010)

12. The Council is concerned that the building would be used as a separate residential unit. However, I am required to determine this appeal on the basis of what has been applied for and no more ie not a new home or other material change of use.

Conditions

13. In addition to the standard time limit condition, a condition is required in the interests of certainty that lists the approved plans. The application forms do not specify the finished materials. In order to ensure that there is clarity as to the external finishes of the building and that they are sympathetic to the host property, I have added a condition requiring the Council's approval on this matter prior to the building proceeding above slab level.
14. The Council has suggested a condition requiring the building to only be used on an ancillary basis to the dwelling. It is not clear whether the Council did mean ancillary rather than incidental, given their stated concerns over how the outbuilding might be used. The appellant has within their Statement, and indeed in one instance within the same paragraph, interchangeably referred to the outbuilding as being both incidental and ancillary to the host property. However, in explaining that the use of the building could change from gym, to home office or games room, the inference from the appellant is broadly that the building would be used for incidental purposes. This would tally with it being a householder proposal for an outbuilding and the absence of any previous indication that it would be used on an ancillary basis. However, given the slight confusion of the main parties and to ensure precision, I have included a condition clarifying the incidental nature of the building's use.

Conclusion

15. For the reasons given above, having considered the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

Stewart Glassar

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not 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: 339/000-PB (Proposed Block Plan); 339/001/A (Plans) and 339/002 (Elevations).
3. No development shall commence above slab level until details of the materials to be used in the construction of the external surfaces of the outbuilding hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
4. The outbuilding hereby permitted shall not be occupied at any time other than for purposes incidental to the residential use of the dwelling known as 37 Braithwaite Gardens.