



Appeal Decision

Site visit made on 28 September 2021

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 10th November 2021

Appeal Ref: APP/T5150/W/21/3275797

11 Tatam Road, London NW10 8HT

- 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 Ashley Young against the decision of Brent Council.
 - The application Ref 21/0085, dated 8 January 2021, was refused by notice dated 5 March 2021.
 - The development proposed is described as '*proposed (as retrospective) outbuilding to rear garden of semi detached house (used as HMO)*'
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Decision

1. The appeal is allowed and planning permission is granted for the retrospective application for existing single storey outbuilding in rear garden at 11 Tatam Road, London NW10 8HT in accordance with the terms of the application 21/0085 dated 8 January 2021, subject to the following conditions:
 - 1) The development hereby permitted shall be retained in accordance with the following approved plan: Drawing No. P-101, Proposed Plans – as retrospective dated December 20; and
 - 2) The outbuilding hereby permitted shall not be used for purposes other than for those ancillary to the residential use of the dwelling known as 11 Tatam Road, London NW10 8HT.

Procedural Matters

2. The name of the applicant has been taken from the appeal form as the details provided in the application form were incomplete.
3. The Council's description of the proposal in its Decision Notice better focusses on the development and, as such, I am using this as the basis for my considerations.
4. The development has already been constructed. I have considered the appeal on the basis that planning permission is sought for the development that has already been carried out.
5. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework. Accordingly, and in light of the reference made to the previous iteration of the Framework within the submitted evidence, the parties have been provided with a further opportunity to make submissions in respect of the publication. In this respect, I am mindful that neither the appellant nor the Council have made any further submissions regarding the revised Framework. However, in light of this re-consultation, I am satisfied that any references made to the revised Framework within this decision would not be unreasonable to the parties.

Main Issues

6. The main issues are the effect of the development on:

- the character and appearance of the host dwelling and surrounding area; and
- the living conditions of neighbouring occupiers of Nos. 9 and 13 Tatam Road, with particular regard to outlook, and noise and disturbance.

Reasons

Character and appearance

7. The appeal site comprises a semi-detached property with a long back garden and outbuilding along the rear boundary. The surrounding area is residential, with properties sited in similar sized plots. The neighbouring dwellings at Nos. 9 and 13 also have outbuildings along their rear boundary lines.
8. The proposal seeks retrospective permission for the outbuilding at the site. The Council's SPD2 Residential Extensions and Alterations (the SPD) represents guidance rather than policy but remains a material consideration. It states that in gardens over 100sqm outbuildings up to 30sqm are normally acceptable. It also advises that outbuildings should be in the final fifth of the garden and that those within 2m of a neighbouring boundary should be no taller than 2.5m. The proposal has a footprint of 46sqm and, although largely located in the final fifth of the garden, spans the entire width of the site with a 3.4m high front elevation. Overall, it fails to comply with the SPD.
9. Nonetheless, the outbuilding remains modest in scale and is built from sympathetic materials. It is subservient to the host dwelling and retains a sizeable amount of useable garden space. To the rear, it would be largely screened by fencing, once this is reinstated. From the front it is experienced alongside the neighbouring outbuildings, which are of a comparable height. It has a similar front building line to the outbuilding at No. 9 and does not project as far forward as that at No. 13. In this context, the proposal does not appear out of place. It complements the host dwelling and immediate locality.
10. For the reasons given above I find that the development does not have a significant adverse effect on the character and appearance of the host dwelling and surrounding area. While it exceeds the limits set out in the SPD guidance, it accords with the aims of Policy DMP1 of the London Borough of Brent Local Plan Development Management Policies, November 2016 (the DMP), which seeks to promote good design.

Living Conditions

11. The outbuilding has been constructed along the side boundaries with both Nos. 9 and 13. However, it is a single storey structure at the rear of the site, sitting behind the side projection of the outbuilding at No. 13, and partially screened by the boundary wall with No. 9 such that its visual impact is reduced. While some views of the outbuilding remain from the dwellings and gardens of Nos. 9 and 13, it is experienced alongside the other outbuildings. In this context it does not appear as an overbearing addition and does not significantly impact neighbouring occupiers' enjoyment of their gardens or habitable rooms along the rear elevation.

12. The plans show the outbuilding is to be for uses ancillary to the main dwelling, namely as a study, games room, gym and storage. Consequently, any resulting noise and disturbance is unlikely to be different to that normally expected from a residential area. Coupled with the distance from the main dwellings, and the presence of outbuildings on either side, any noise and disturbance arising would not be to undue levels, or detrimental to neighbouring occupiers' living conditions.
13. For the reasons given above I find that the development does not have a significant adverse effect on the living conditions of neighbouring residents at Nos. 9 and 13 Tatam Road, with particular regard to outlook and noise and disturbance. While it exceeds the limits set out in the SPD guidance, it accords with the aims of Policy DMP1 of the DMP.

Other Matters

14. The Council has expressed concerns that the outbuilding would not be for purposes incidental to the main dwelling house. However, this can be addressed by a condition that the outbuilding would only be used for purposes ancillary to the dwelling, which the appellant has stated would be acceptable.
15. The Council has also indicated that due to the proximity of the outbuilding to the rear fence, the proposed gate would open onto the public highway. However, the appellant has indicated that this could be resolved by way of a minor amendment to the planning permission granted or through enforcing the provisions of s153 of the Highways Act.

Conditions

16. The Council has not suggested any conditions. As the application was submitted retrospectively, a time limit condition and specific condition regarding materials are not required. However, in order to provide certainty I am satisfied that a condition specifying the plans in accordance with which the proposal is to be retained is necessary. A condition to ensure that the outbuilding remains ancillary to the main dwelling at No. 11 is also necessary for the avoidance of doubt and in the interests of the living conditions of neighbouring occupiers.

Conclusion

17. For the reasons given, the proposal would accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be allowed subject to the conditions at paragraph 1 of this decision.

C Rafferty

INSPECTOR