



Appeal Decision

Site visit made on 1 February 2022 by C Glaister BSc (Hons)

Decision by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 March 2022

Appeal Ref: APP/T5150/D/21/3286999

51 St Georges Avenue, London NW9 0JT

- 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 Marcello Capone against the decision of the London Borough of Brent.
 - The application Ref 21/3134, dated 13 August 2021, was refused by notice dated 8 October 2021.
 - The development proposed is described as "Demolition of existing garage and erection of single storey outbuilding in rear garden for purposes ancillary to the main dwelling".
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Decision

1. The appeal is dismissed.

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.

Procedural Matter and Main Issues

3. Within the delegated officer report, the Council clearly expresses its opinion that the proposed accommodation would fail to comply with the requirements of Policy DM18 of the London Borough of Brent Local Plan Development Management Policies (November 2016) (DMP) with regard to the inclusion of additional living accommodation. For reasons that are unclear, those concerns are not set out within the decision notice as a reason for refusal. Nonetheless, the appellant has responded to the issue within his appeal statement and it is clearly a matter of dispute between the parties. Consequently, despite the omission from the decision notice, I have addressed the matter as a main issue in the appeal.
4. Therefore, the main issues are the effect of the development on the character and appearance of the area and whether the inclusion of primary living accommodation within the building would provide suitable standard of accommodation having regard to the requirements of policy DM18 of the DMP.

Reasons for the Recommendation

Character and Appearance

5. The site is located within a residential area. Small sheds and outbuildings are not uncommon in the area around the site. There is a garage at the rear of the

garden that has access to an alleyway adjacent to the property. The garage would be demolished to accommodate the proposed outbuilding.

6. The outbuilding would occupy almost the full width of the garden. It would be much larger than any outbuilding or shed in the immediate vicinity and would fail to respect the existing pattern of development in the area. Its size would be excessive, and it would appear disproportionate in relation to the size of the garden and other development nearby. For these reasons, it would cause harm to the character and appearance of the area.
7. The Residential Extensions & Alterations SPD 2 (Jan 2018) (SPD) provides guidance relating to outbuildings. It suggests that if a garden is more than 100m² normally an outbuilding of no more than 30m² may be acceptable. Although the garden is larger than 100m² the extent to which the outbuilding would exceed the size suggested in the SPD would be more-than-marginal and it would still appear excessively large. It would therefore fail to adhere to the guidance provided in the SPD.
8. In addition, the block plan submitted with the application indicate that an existing shed would be relocated elsewhere within the garden, close to the front of the new outbuilding. Given that the proposed building is intended to provide living accommodation as opposed to storage, it seems likely that a building would be required to store outdoor equipment and furniture and the like. The scale of the proposed outbuilding would be harmful, of itself, but the combined effect of two outbuildings would be greater still and would add significant clutter to the garden space.
9. For these reasons, the development would cause harm to the character and appearance of the area. It would therefore fail to comply with Policy DMP1 of the London Borough of Brent Local Plan Development Management Policies (November 2016) (DMP) and CP 17 of the London Borough of Brent Local Development Framework Core Strategy (July 2010) which together seek to ensure development complements the locality and respects the setting of existing dwellings.

Living Accommodation

10. The plans indicate that the outbuilding would include a kitchen, dining room, bedroom, bathroom, and living space. Policy DMP18 of the DMP and draft Policy BH12 of the draft Brent Local Plan 2019-2041 both state 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. The supporting text explains that the policy has evolved due to the particular pressure for living accommodation within Brent, including beds in sheds, and concerns over the quality of accommodation provided.
11. In this case, although the appellant suggests that the proposal would be used for purposes ancillary to the occupation of the main dwelling, little supporting information is provided as to who would occupy the building or why it is required. Thus, it is difficult to ascertain how its use would relate to occupants of the dwelling and clarity of purpose is somewhat lacking.
12. In the absence of information as to who would occupy the building, or the number of occupants, it is difficult to quantify the likely impact upon the potential future occupants or occupants of the existing dwelling. In that

regard, the appellant has failed to show why an exception to the general preclusion against such accommodation within policy DMP18 is justified.

13. It is a sizeable structure with all of the facilities required for day to day living and could increase the intensity of occupation at the property as a whole. As described above, the proposal would take up a substantial area of the garden and would be likely to require the repositioning of an existing shed. Thus, it would impact on the usability of the garden space. Three sides of the structure would contain no windows and single aspect accommodation would provide a restricted outlook for any occupants if the property was occupied as an annex.
14. Consequently, in the absence of details of who would occupy the building, I am not satisfied that it would provide a satisfactory living environment for future occupiers of the dwelling and/or the outbuilding and the proposal is contrary to the requirements of policy DMP18 of the DMP.

Other Matters

15. The appellant contends that a similar building could be erected as a fall-back under 'permitted development' rights. However, outbuildings are only permitted under Class E, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO) where they are for a purpose 'incidental' to the enjoyment of the dwellinghouse. As explained in the Government's *Permitted Development Rights for Householders – Technical Guidance (2019)*, incidental uses cover structures such as sheds and garages but not the provision of additional primary living accommodation which would be an extension of the main residential use as opposed to being incidental to it.
16. Whilst an outbuilding not providing primary accommodation could in theory be provided, it is not clear why the appellant would erect such a large structure for an undefined 'incidental' purpose. Accordingly, it is not clear that a similar outcome could be achieved by utilising permitted development rights and I attach limited weight to the suggested fall-back position.

Conclusion and Recommendation

17. Based on the above the proposal would be contrary to the development plan and no material considerations have been put forward that would outweigh that conflict or the harm that has been identified. Therefore, having regard to all matters raised, I recommend that the appeal should be dismissed.

C Glaister

APPEAL PLANNING OFFICER

Inspector's Decision

18. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis, I agree with the recommendation and shall dismiss the appeal.

Chris Preston

INSPECTOR