



Appeal Decision

Site visit made on 12 May 2022

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 June 2022

Appeal Ref: APP/N5090/W/21/3278276
22 Milesplit Hill, Mill Hill, London NW7 2PL

- 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 Ms Nita Rajani against the decision of London Borough of Barnet.
 - The application Ref 20/5301/FUL, dated 6 November 2020, was refused by notice dated 5 January 2021.
 - The development proposed is a single storey garden gym at rear of ground floor flat.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey garden gym at rear of ground floor flat at 22 Milesplit Hill, Mill Hill, London NW7 2PL in accordance with the terms of the application, Ref 20/5301/FUL, dated 6 November 2020, subject to the following 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: Proposed Site Plan, Drawing Number 1539-BA-105; Proposed Ground and First Floor Plan, Drawing Number 1539-BA-106; Proposed Sections A-A & B-B, Drawing Number 1539-BA-107; Proposed Sections C-C, D-D & E-E, Drawing Number 1539-BA-108.
 - 3) The outbuilding hereby permitted shall be used only for purposes incidental to the enjoyment of the host dwelling, that being 22 Milesplit Hill.

Main Issues

2. The main issues are the effect of the proposed development on 1) the character and appearance of the host property and the surrounding area, and 2) the living conditions of occupants of surrounding residential properties with specific regard to outlook and light.

Reasons

Character and appearance

3. The appeal property is a ground floor flat. It forms part of a two-storey semi-detached building comprising a total of four flats, including the appeal property. At the rear, the gardens are laid out so that the ground floor flat has a rear garden immediately behind the property, and the upper flat has a garden set behind and accessible to the side of the garden for the ground floor flat.

4. I observed that there are several outbuildings in the rear gardens of surrounding properties. These include, what appear, original brick outbuildings and an array of sheds, greenhouses and other ancillary buildings. There is also a similar building to that proposed in the rear garden of the upper flat, that sits behind the garden of the appeal property and the site of the proposed outbuilding.
5. The proposed outbuilding would be sited at the rear of the garden that serves the appeal property. Although, when viewed in conjunction with the garden of the upper flat it would appear centrally located, in light of the number of outbuildings in the rear gardens, I do not consider that the siting would cause unacceptable harm. The garden for the appeal property is part of a clearly defined separate planning unit and clearly distinguishable from the garden that serves the upper flat. I therefore do not consider that it would be reasonable to restrict the development simply because it would be positioned in the middle of two gardens when combined together. The Council have referred to the 'subdivision' of the gardens, however it appears from the evidence and from my site visit, that this is the originally planned and intended arrangement rather than a later subdivision.
6. In terms of the scale of the outbuilding, being single storey with a flat roof it would not be highly prominent and would be commensurate with other outbuildings that are sited in the rear gardens of surrounding properties. Its design would also be consistent with the other outbuildings, and I consider that neither its design nor scale would cause harm.
7. I therefore conclude that the proposed development would not have an unacceptable impact on the character and appearance of the host property and the surrounding area. It would comply with Policies CS1 and CS5 of the Barnet Local Plan (Core Strategy) Development Plan Document (2012) and Policy DM01 of the Barnet Local Plan (Development Management Policies) Development Plan Document (2012). These policies seek to ensure, amongst other things, that development is of a high quality and standard of design; protects and enhances the gardens of residential properties; and should preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets.
8. The proposed development would also be in accordance with the guidance contained within the Residential Design Guidance Supplementary Planning Document (2016) that outlines, amongst other things, that garden buildings should be located to the rear of properties and that the design and materials should respect the existing buildings and the overall character of the area.

Living conditions

9. The proposed outbuilding would be situated at the foot of the garden serving the appeal property. Due to the relatively low boundary treatment between the rear gardens, it would be visible from the rear of the properties above and adjacent to the appeal property.
10. Due to its overall scale and siting, it would be positioned at a distance from the surrounding properties, and be of such a scale, that it would not cause an unreasonable impact on the levels of light or outlook from the surrounding properties. The orientation of the siting and the position of surrounding dwellings would also ensure that there would be a minimal loss of light.

11. The Council have referred to the impact of the outbuilding on the rear garden of no. 22A which sits behind the rear garden of the appeal property and the proposed site of the outbuilding. Although there would be a reduction in light to the rear garden area, and it would be clearly visible from the rear garden, due to its overall size and scale, it would not be unacceptable. The impact would be comparable to a rear garden located adjacent to a neighbour's extension or outbuilding, where such an arrangement is commonplace in residential areas such as this.
12. I therefore conclude that the proposed development would not have an unacceptable impact on the living conditions of occupants of surrounding residential properties with regard to outlook and light. It would comply with Policy DM01 of the Barnet Local Plan (Development Management Policies) Development Plan Document (2012) and Policy CS5 of the Barnet Local Plan (Core Strategy) Development Plan Document (2012). These policies seek to ensure, amongst other things, that development should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers and should contribute to people's sense of place.
13. The proposed development would also be in accordance with the guidance contained within the Residential Design Guidance Supplementary Planning Document (2016) that outlines, amongst other things, that back garden buildings should not unduly over-shadow neighbouring properties or unduly affect outlook from an adjoining property's habitable rooms or principal garden areas.

Other Matters

14. I have considered the Council's argument that the grant of planning permission would set a precedent for other similar developments. Each application and appeal must be determined on its own individual merits, and a generalised concern of this nature does not justify withholding permission in this case. Given that I have concluded that the proposal would be acceptable, I can see no reason why it would lead to harmful developments on other similar sites in the area.
15. I note that objection has been received in relation to impact on privacy. Although there is a low boundary treatment with the adjoining ground floor flat, I consider that there is an acceptable degree of separation and that this would not be a reason to withhold consent for an outbuilding that would be incidental to the enjoyment of the dwelling.
16. Objection has also referred to the proposed development creating an inability for residents to see children in the rear garden. I observed on my site visit that there is a high reed fence/screen between the rear garden of the appeal property and the rear garden for the flat above. I do not consider that the proposed development would significantly exacerbate this existing situation, and do not consider that this would be grounds to dismiss the appeal.
17. Objection has referred to the 600mm gap that would be created from the boundary and the implications for maintenance. There is no substantive evidence that this would result in an unacceptable impact, and it would not be a reason to withhold granting planning permission.

18. I am referred to an alleged boundary discrepancy. Ownership issues are a private matter between the relevant parties and not within my jurisdiction. Planning permission would not override any legal rights of access or property ownership.
19. Objection has been received in relation to air conditioning units and CCTV. No such details are however shown on the plans before me.

Conditions

20. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans for the avoidance of doubt and in the interests of certainty.
21. In the interests of the living conditions of occupants of surrounding dwellings, it is necessary to impose a planning condition restricting the use of the outbuilding for purposes incidental to the enjoyment of the host dwelling. In the interests of clarity and certainty, I have amended the wording suggested by the Council.
22. As a standalone building, it is not necessary to impose a planning condition requiring the use of materials to match those of the existing building. As the use of the building as a separate dwelling would require planning permission, it is not necessary to impose a planning condition to that effect.

Conclusion

23. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

A M Nilsson

INSPECTOR