



Appeal Decision

Site visit made on 9 May 2022

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 JUNE 2022

Appeal Ref: APP/D5120/W/21/3286666

124 Harland Avenue, Sidcup DA15 7PA

- 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 Mrs Cassem against the decision of the Council of the London Borough of Bexley.
 - The application Ref 20/03363/FUL, dated 20 December 2020, was refused by notice dated 14 May 2021.
 - The development proposed is a single storey detached outbuilding.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey detached outbuilding at 124 Harland Avenue, Sidcup DA15 7PA in accordance with the terms of the application, Ref 20/03363/FUL, dated 20 December 2020, and subject to the following condition:
 - 1) The development hereby permitted relates to the following approved plans: Site Location Plan (received on 22 April 2021), Location detail with plan view Version 2; Front and right-hand side elevations: materials and build info Version 2; Front and right-side elevation and plan view Version 2; and Back and left hand side elevations Version 2.

Preliminary Matters

2. It is clear from the application form and my site visit that the development has already been carried out. I am satisfied that the development that has been carried out is the same as that which has been applied for.
3. I have used the Council's description of development as it is more concise than that given on the application form, although I have removed "retention of" as this does not form part of the development.

Main Issues

4. The main issues are the effect of the proposal on Urban Open Space, and the effect of the proposal on the character and appearance of the area.

Reasons

Urban Open Space

5. The appeal site relates to 124 Harland Avenue and part of a defined area of Urban Open Space immediately to the north of the domestic curtilage of the property. The Urban Open Space is wide at this point and is densely vegetated with trees and bushes on both sides of Wyncham Stream, which is designated

- as a Site of Importance for Nature Conservation. The surrounding area is residential and predominantly comprises two storey semi-detached and terraced properties. Most properties in the area have large rear gardens with domestic outbuildings situated towards the rear boundary.
6. The outbuilding has been constructed beyond the rear boundary of the domestic curtilage within the Urban Open Space. The structure consists of a wooden shed with a covered area and is constructed close to the embankment and a retaining wall to the side of the stream.
 7. Saved Policy ENV19 of the Bexley Unitary Development Plan (2004) (UDP) seeks to retain land defined as Urban Open Space for uses that would retain the open appearance. Such uses are open air recreation, leisure, tourism or sport; allotments and nursery gardens; cemeteries, nature conservation; and educational or community uses. The justification to Policy ENV19 explains that open land is important in terms of its contribution to the landscape and in providing attractive breaks in the built-up area. The proposal does not fall within any of the uses specified as being acceptable in the Urban Open Space.
 8. Saved UDP Policy ENV19 outlines certain exceptions for development within Urban Open Spaces subject to all 5 specified criteria being met. The Council considers that the proposal fails to comply with criteria 3 and 4.
 9. Although the Urban Open Space has some significance to the visual amenity of the area in providing a break in the built-up area between Harland Avenue, Frensham Road and Brooklands Avenue, the land covered by the outbuilding is modest. The surrounding dense vegetation, neighbouring outbuildings, boundary fences and houses, restrict any appreciation of openness in this part of the Urban Open Space. The site is not visible from the public domain and in my view has no significant or important visual amenity value as a landscape feature. Accordingly, the proposal satisfies criterion 3 of UDP Policy ENV19.
 10. There is no evidence before me to indicate that any mature trees have been adversely affected by the proposal or that it has impacted nearby tree roots. I am therefore satisfied that the development complies with criterion 4.
 11. For the above reasons, I conclude that the proposal does not have a harmful effect on the Urban Open Space. The proposal complies with saved Policy ENV19 of the UDP, which seeks to retain the open appearance of Urban Open Spaces.

Character and appearance

12. The outbuilding and adjoining covered area extend across the full width of the site. Whilst it is larger than neighbouring outbuildings, the design and appearance are broadly reflective of other domestic outbuildings in the area. The materials enable the structure to blend in with the backdrop of mature trees. It is therefore sympathetic to its surroundings. The development is not visible from the public domain, and it therefore has no impact on the street scene.
13. For these reasons, I consider that the proposal is not harmful to the character and appearance of the area. In this respect, it complies with saved Policies ENV39 and H9 of the UDP, which require development to be compatible with the character of the surrounding area.

Other Matters

14. A number of comments have been made by interested parties, which include concerns about the effects on wildlife habitats, flood risk and that a precedent would be set. However, the Council have not raised objections to the proposal on these grounds and I have no reason to disagree with this assessment based on the evidence before me and my observations on site. I have judged the appeal proposal on its own merits and in terms of the particular characteristics of the site. It is in this context that I find the proposal to be acceptable. Any future proposals would be assessed on their own merits.

Conditions

15. I have had regard to the Council's suggested conditions. For clarity and enforceability, I have set out the approved plans. The Council have suggested a condition requiring the outbuilding to be used solely for purposes incidental to the enjoyment of the dwelling and not used as a separate unit of accommodation, or for any business, trade or profession and not contain sleeping accommodation. Such a condition does not meet the test of necessity as any future use which was not ancillary to the primary use of the land as a dwellinghouse would require planning permission. The proposal is used for the storage of tools, bikes and garden furniture. There is no suggestion that it will be used to provide sleeping accommodation, and even if it did there is no substantive evidence before me to indicate that such use would be harmful to the living conditions of neighbouring occupiers, particularly given its relatively small size. Accordingly, I have not included this suggested condition.

Conclusion

16. For the reasons given above, the appeal is allowed, subject to the stated condition.

M Ollerenshaw

INSPECTOR