



Appeal Decision

Site visit made on 17 May 2022

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th July 2022

Appeal Ref: APP/T5150/W/21/3288927

7 Astley Avenue, London NW2 4AD

- 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 Deidre Guerin against the decision of London Borough of Brent.
 - The application Ref 21/2635, dated 9 July 2021, was refused by notice dated 3 September 2021.
 - The development proposed is the demolition of existing shed and erection of outbuilding to rear of dwellinghouse.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing shed and erection of outbuilding to rear of dwellinghouse at 7 Astley Avenue, London NW2 4AD in accordance with the terms of the application, Ref 21/2635, dated 9 July 2021, and the plans submitted with it, 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: E001, E002, P001, P002 and P003.
 - 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan no. P003.
 - 4) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 7 Astley Avenue, London NW2 4AD.

Preliminary Matters

2. The description of the proposed development in the banner heading above has been taken from the appeal form rather than the application form as it represents a more accurate description of the proposal detailed within the submitted plans.
3. In February 2022 the Council adopted a new Local Plan and, in an email dated 14 June 2022, they confirmed that Policy DMP1 of the newly adopted Brent Local Plan (2022) and Policy D6 of The London Plan (2022) were the policies most relevant to this appeal. The appellant has been provided with an opportunity to comment on the adoption of this plan and the policies which the Council consider are relevant. In this respect, I am mindful that no additional comments have been received regarding this matter. However, in light of this

consultation, I am satisfied that any references made to the newly adopted Brent Local Plan would not be unreasonable to the parties. Therefore, the appeal will be considered against this policy from the newly adopted Plan.

Main Issues

4. The main issues are:

- the effect of the proposed development on the character and appearance of the surrounding area,
- the effect of the proposed development on the living conditions of the occupiers of neighbouring dwellings, with regard to privacy, outlook and disturbance, and
- whether the proposed development would provide satisfactory living conditions for its occupiers, with regard to accommodation standards and privacy.

Reasons

Character and Appearance

5. The appeal property is a two-storey mid-terrace dwelling with further accommodation in the roof and a small shed in the rear garden. This shed would be replaced with a larger outbuilding to be used as a residential annexe, to accommodate a relative of the occupants of the main dwelling when visiting.
6. It is noted that the annexe has some of the necessary facilities to be used as an independent unit, such as a bedroom and a bathroom. However access to the proposed annexe would be via the garden of the main dwelling, with no separate access or its own kitchen/dining area, and therefore these facilities would be shared with the host property. It is therefore reasonable to accept that the proposal would not result in a separate dwelling and would be used ancillary to the host dwelling. The appellant has stated that they would accept a condition to restrict the use of the annexe to ensure that it is not occupied independently of the host dwelling.
7. The Brent Residential Extensions and Alterations Supplementary Planning Document 2 (2018) states that outbuildings should be incidental to the main dwelling. Therefore, as the proposed development would include residential accommodation within an outbuilding, albeit only occupied temporarily, it would not accord with this guidance.
8. However, the proposed development is modest in size with a limited amount of residential accommodation which would need to be supported by the main dwelling. Therefore, in this instance, it would not result in the overdevelopment of the site or an excessive level of occupation which would harm the character and appearance of the area. The design of the proposed building is of high quality and would be similar in appearance to an incidental outbuilding, thereby not appearing out of character within this domestic rear garden environment.
9. Therefore, whilst the proposed development would not explicitly comply with guidance in the Brent Residential Extensions and Alterations Supplementary Planning Document 2 (2018), it would not harm the character and appearance of the area. It would also comply with Policies DMP1 of the Brent Local Plan (2022) which requires new development to complement the locality.

Living Conditions – Neighbouring Occupiers

10. The proposed development would have windows on both sides of the building, facing the gardens of the neighbouring properties at 5 and 9 Astley Avenue. However, these are at ground floor level only and would be largely obscured by the existing boundary fences. There would also be glazed patio doors on the front elevation facing the host dwelling and these neighbouring properties. Again, views from these patio doors into the neighbouring gardens of No.5 and 9 would be obscured by the boundary fences. Furthermore, the proposed building is a sufficient distance from these neighbouring dwellings to ensure that views into the rear windows would not harm the privacy of neighbouring occupiers.
11. The Council have also raised concerns which relate to an increase in noise and disturbance within the rear garden environment, caused by the proposed development. Although pedestrian activity may increase to and from the building, the resultant noise of the increased activity would be minimal and akin to a similar incidental garden outbuilding.
12. It is also noted that a third-party objection was received in relation to the effect of the proposed building on the properties to the rear on Meredith Avenue. However, although close to the boundaries, the height of the proposed building would not be significantly greater than the boundary fences. Therefore, it would not have an overbearing impact on the occupiers of the neighbouring properties when using the parts of their gardens closest to the proposal.
13. Therefore, the proposed development would not harm the living condition of the occupiers of the neighbouring dwellings and would not conflict with Policy DMP1 of the Brent Local Plan (2022). This policy seeks to ensure that new development does not unacceptably increase exposure to general disturbance.

Accommodation Standards

14. The Council's reasons for refusal state that the proposal would provide a dwelling of substandard size, although this has not been substantiated. Nevertheless, as the proposed development is for an ancillary annexe which would be supported by the main dwelling, and not a separate dwelling, the Nationally Described Space Standards are not relevant in this instance.
15. Views of the proposed building and the patio doors on the front elevation would be readily available from the first-floor windows of the adjacent neighbouring properties. However, these are sufficiently separated to ensure that the occupiers of the proposed annexe would have adequate privacy.
16. Therefore, the proposed development would provide satisfactory living conditions for its occupiers and would therefore comply with Policy DMP1 of the Brent Local Plan (2022) and Policy D6 of The London Plan (2021). These policies requires housing development to provide adequately sized rooms with high levels of internal and external amenity and demonstrate that it will have adequate privacy. The proposal would also accord with the Brent Design Guide Supplementary Planning Document 1 (2018) which states that development should ensure a good level of privacy inside buildings.

Other Matters

17. The Council have indicated that as no plans have been provided showing the existing and proposed height of the additional patio and ramped access, it was not possible to assess this element. However, no specific objections have been raised regarding this and I find no harm from these minor works associated with the proposed development, as shown on the proposed floor plan.

Conditions

18. In addition to the standard time period for commencement of the development, I have attached a condition requiring the development to accord with the approved plans, as this provides certainty and precision. A condition requiring the use of materials matching that of the existing building is also necessary to ensure an appropriate appearance for the development.
19. A condition suggested by the appellant, to ensure that the building is used ancillary to the main dwelling, has been included as it is considered necessary to guarantee the use of the proposed development. The Council have indicated that they do not accept conditions which require constant checking to ensure they are being adhered to. However, this does not result in the condition being unenforceable and would not be a sufficient reason to withhold planning permission.
20. The Council have requested a condition to ensure that the proposed building is used only for the purposes incidental to the enjoyment of the main dwellinghouse. However, this would directly conflict with the proposed use of the building as an annexe and therefore has not been included.

Conclusion

21. For the reasons set out above, the appeal is allowed.

E Grierson

INSPECTOR