



Appeal Decision

Site visit made on 22 August 2022

by A Veevers BA(Hons) PGDip (BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd September 2022

Appeal Ref: APP/T5150/W/22/3291798

20A Ambleside Road, London NW10 3UJ

- 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 Fenlon against the decision of the Council of the London Borough of Brent.
 - The application Ref 21/1896, dated 21 May 2021, was refused by notice dated 21 December 2021.
 - The development proposed is outbuilding to rear garden.
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Decision

1. The appeal is allowed and planning permission is granted for outbuilding to rear garden at 20A Ambleside Road, London NW10 3UJ in accordance with the terms of the application, Ref 21/1896, dated 21 May 2021, and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: P-100 Existing Plans - Prior to Build and P-101 Revision 1.2 Proposed Plans – As Built.
 - 2) No use or occupation of the outbuilding hereby permitted shall take place until boundary treatments have been erected in accordance with details that have first been submitted to and approved in writing by the local planning authority. The boundary treatments shall thereafter be retained.
 - 3) No use or occupation of the outbuilding hereby permitted shall take place until rainwater drainage for the outbuilding has been installed in accordance with details that have first been submitted to and approved in writing by the local planning authority. The rainwater drainage shall thereafter be retained.
 - 4) The outbuilding hereby permitted shall be used only for purposes ancillary to the main dwelling and for no other purpose including business or commercial use, or for an independent dwelling, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015, as amended, without the prior approval, in writing, of the Local Planning Authority.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form, which is different to that in the Council's decision notice. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used

the one given on the original application but removed the superfluous additional commentary.

3. At the time of my site visit, a development as shown on the submitted plans was complete, although some deviations were apparent between the installed development and the plans, notably, windows in a side elevation of the outbuilding. I also noted that a fence had been erected along the boundaries with No. 18 and No. 22 Ambleside Road (No.18 and No. 22). For the avoidance of doubt, this appeal is determined on the basis of the plans as submitted with the planning application.
4. Following submission of the appeal, the Council adopted a new development plan on 24 February 2022, the Brent Local Plan 2019-2041 (BLP). The Council has confirmed that Policy CP17 of the Brent Core Strategy (2010) (CS) and Policy DMP1 of the Development Management Policy (2016) (DMP) have been replaced by Policy DMP1, Policy BD1 and Policy BH12 of the BLP. The appellant has been given the opportunity to comment as part of the appeal process. Therefore, I have considered the appeal having regard to the newly adopted Local Plan and am satisfied that any references made to it within this decision would not be unreasonable to the parties.

Main Issues

5. The main issues are the effect of the proposal on:
 - The character and appearance of the host property and the surrounding area; and
 - The living conditions of the occupiers of No. 18 Ambleside Road (No.18), with particular regard to privacy.

Reasons

Character and appearance

6. The appeal dwelling is a ground floor mid terraced flat. It lies within an area of similar two storey terraced properties, all with relatively short rear gardens. The outbuilding would be positioned at the far end of the garden and would be substantial in size, almost spanning the full width of the garden, sitting alongside the side and rear boundaries. Notably, since the Council made their formal decision, a fence has been erected to each side boundary of the rear garden.
7. The recently erected fence would screen a large proportion of the outbuilding, reducing its overall prominence in the area. Furthermore, the outbuilding would remain domestic in appearance and, although not laid to grass, a useable amount of outdoor private amenity space would be retained between the outbuilding and the host property. Due to the siting of the outbuilding close to a large neighbouring tree immediately to the rear, and the presence of other nearby fences and garden buildings and structures, it would not appear out of scale or context with the host dwelling and its private amenity space, or the surrounding area. Moreover, the Council have confirmed that the size of the outbuilding and remaining garden would conform to the advice contained within the Residential Extensions and Alterations SPD2 (Jan 2018) (SPD).

8. For the above reasons, I conclude that the outbuilding would not harm the character and appearance of the host dwelling and the private amenity space belonging to it, or the surrounding area. I therefore find no conflict with the overall aims of Policies DMP1, BD1 and BH12 of the BLP which seeks to ensure ancillary buildings are used as such and are of high-quality design that respects the settings of existing dwellings and compliments the locality.

Living conditions

9. The outbuilding would incorporate a fully glazed elevation facing the rear of the host dwelling. Although the outbuilding would provide views towards windows on the first and second floor rear facing elevations of No.18, these would be angled upwards, further away than ground floor windows and would not result in any significant additional overlooking than already exists from rear garden areas of surrounding dwellings. Furthermore, due to the height of the boundary treatment adjoining No.18, no significant overlooking would occur towards the garden or ground floor windows of this dwelling.
10. Due to the modest height and depth of the outbuilding above the boundary fence and its position towards the rear-most part of the adjoining gardens, the outbuilding would not significantly reduce light or be significantly overbearing for occupiers of neighbouring dwellings.
11. I have carefully considered the concerns of a neighbouring resident regarding the potential for noise and disturbance to arise from the use of the outbuilding, and particularly its use as a social and entertaining space. However, I have no evidence to suggest that the outbuilding would be used for activities outside that ancillary to the main use of the dwelling. I am therefore satisfied that the circumstances noted above would not be excessively felt or out of keeping within a residential setting and context, provided the outbuilding is used as ancillary accommodation only and a condition is imposed as such, in accordance with Policy BH12 of the BLP.
12. In light of the above factors, I conclude that the outbuilding would not have an unacceptably harmful effect on the living conditions of the occupiers of No. 18 Ambleside Road, with particular regard to privacy. I therefore find no conflict with Policies DMP1, BD1 and BH12 of the BLP or the SPD which, amongst other matters, seek good design and standard of ancillary accommodation.

Other Matters

13. I note the concerns of a neighbour with particular regard to the close proximity of an existing tree to the outbuilding, along with the effect of the development on local wildlife. However, there is little substantive evidence to support these claims. I am therefore unable to attribute significant weight to these matters.
14. Concerns have also been raised by a third party in respect of rainwater from the outbuilding not being directed to a gully, along with a query regarding fire risk. Having regard to the lack of drainage details provided and the appellant's confirmation in their statement that drainage would be connected to the main surface water drain, a condition can be imposed to deal with this matter. Fire safety is dealt with through other legislation.

15. The appellant has drawn me to the provisions of the GPDO¹ particularly with regard to outbuildings but have accepted that the appeal property is a flat and hence does not benefit from the same provisions. Consequently, I do not consider the GPDO to constitute a fallback position and accordingly, this carries no weight in my decision.

Conditions

16. I have considered the suggested conditions from the Council and had regard to Paragraph 55 of the Framework and the national Planning Practice Guidance in terms of the use of conditions. Since the development is retrospective, there is no requirement for the standard commencement condition. A condition specifying the relevant drawings is necessary as this provides certainty. I find the proposed exterior materials of the outbuilding as indicated on the submitted plans to be acceptable and therefore the suggested condition to match the materials of the host dwelling is not necessary. To ensure the development would be suitably drained without risk to surface water flooding on the site or elsewhere, a drainage condition is necessary, although as the outbuilding has been erected, I have edited the suggested condition to incorporate a strict timetable for compliance in order to ensure that the development can be enforced against if the requirements are not met.
17. In addition to the suggested conditions, and because the fence along both side boundaries of the appeal site is not shown on the submitted plans and has not been agreed with the Council, a condition is imposed to ensure that details of boundary treatment are submitted, approved and implemented so as to protect the living conditions for occupants of neighbouring dwellings and therefore make the development acceptable in planning terms. As above, there is a strict timetable for compliance because permission is being granted retrospectively.
18. The Council have referred to Policy BH12 of the BLP in the officer report, which aims to limit the use of outbuildings to ancillary to the main use of the dwelling only, in order to reduce the potential for overcrowding of residential properties, a particular problem within the Borough. Consequently, I consider it necessary to impose an occupancy condition and the parties have raised no concern with the wording of such a condition.

Conclusion

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

A Veevers

INSPECTOR

¹ Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)