
Appeal Decision

Site visit made on 28 September 2022

by David English BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2022

Appeal Ref: APP/N5090/W/22/3300909

69 Engel Park, Mill Hill, London NW7 2HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Mehdi Soleimanzadeh against the Barnet London Borough Council.
 - The application Ref 21/5521/RCU, is dated 16 October 2021.
 - The development proposed is a detached outbuilding-gym.
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Decision

1. The appeal is allowed and planning permission is granted for a detached outbuilding-gym at 69 Engel Park, London NW7 2HN in accordance with the terms of the application, Ref 21/5521/RCU, dated 16 October 2021, subject to the following conditions:
 1. The outbuilding hereby permitted shall not be occupied at any time other than for purposes ancillary or incidental to the residential use of the dwelling known as 69 Engel Park.
 2. The roof of the outbuilding hereby permitted shall only be used in connection with the repair and maintenance of the building and shall at no time be converted to, or used as, a balcony, roof garden or similar amenity or sitting out area.

Preliminary Matters

2. A detached outbuilding has been constructed at the bottom of the back garden of the appeal property. That outbuilding effectively covers the full width of the garden. This differs from the details on the plans, which show a degree of separation between the building and the side boundaries to the garden. Notwithstanding references in evidence to a 'canopy' attached to the outbuilding, none existed at the time of my visit. Given that the building is substantially complete, my decision is based on the outbuilding as it existed at the time of my site visit.
3. The appeal results from the Council's failure to determine the planning application within the prescribed period. As a result, there is no formal decision on the application. However, the Council provided a report which sets out the reason why the Council would have refused planning permission had it been empowered to do so. I have taken this, along with other evidence before me, to inform the main issue.

4. Plans were included in the evidence showing alterations to the main house, 69 Engel Park. The planning application form describes the proposal before me as an outbuilding. I have determined the appeal on the basis of the development for which planning permission was sought, which is an outbuilding in the rear garden.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

6. The detached flat-roofed single storey outbuilding is situated at the bottom of the long terraced rear garden of this semi-detached house. Ground levels rise significantly from the rear wall of the house towards the outbuilding. As a result of the varied local topography, floor level inside the outbuilding is similar to first floor levels in the neighbouring houses 67 and 71 Engel Park.
7. The central part of the outbuilding is finished in a buff-coloured render, which is not uncommon in the area, and there are open-fronted covered storage areas to either side linking the building to the common boundaries. There is one window and a glazed door in the front elevation, and one window in the rear elevation.
8. While the evidence suggests that the building may originally have been much larger, I saw on my site visit that the completed outbuilding covers the full width of the rear garden but occupies a relatively small area, substantially less than that suggested in representations. Tall, solid fences to all boundaries, and substantial vegetation extending above the fences provide good levels of screening which significantly limits intervisibility between the outbuilding and the windows in neighbouring properties.
9. The section of Engel Park within which the appeal property sits comprises mostly pairs of semi-detached houses. The original gaps between pairs of houses have largely been retained. However, visibility of the outbuilding from the street is limited due to its position relative to, and distant from, the street. In any event, I saw on my site visit other examples of rear garden outbuildings associated with nearby properties, thus the rear garden outbuilding is not uncharacteristic.
10. The Barnet London Borough Local Plan Supplementary Planning Document: Residential Design Guidance (October 2016) ('the SPD') establishes principles to be applied to back garden buildings. The SPD expects the scale, design and appearance of buildings to be harmonious with the surrounding area thereby maintaining its character. Whilst it is visible from some first-floor windows in the rear elevations of neighbouring dwellings, the design, size, positioning and appearance of this modest outbuilding would be appropriate in this rear garden context, and in these respects, it is commensurate with other similar structures in the immediate area.
11. I find the outbuilding to be an appropriate form of development which does not harm the character and appearance of the area. Accordingly, it does not conflict with Policy D3 of The London Plan (March 2021) since the layout, orientation, scale, appearance, and shape of the outbuilding respond positively to local distinctiveness, it has due regard to the forms and proportions of

development in the vicinity of the site, and delivers appropriate outlook, privacy and amenity. It is in accordance with Policies CS1 and CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document (September 2012) which require development to respect local context and have regard to advice set out in the SPD; and with Policy DM01 of the Barnet's Local Plan (Development Management Policies) Development Plan Document (September 2012) since it preserves local character and respects the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets. It also accords with the SPD as set out above.

Other Matters

12. Various representations have been made expressing concerns about the effect of the outbuilding on the living conditions of the occupiers of nearby dwellings. Notwithstanding its elevated position in comparison to Nos 67 and 71, the appearance and size of the outbuilding, and the height, location and extent of screening noted above, along with the significant separation from all neighbouring dwellings are such that any effects on living conditions in respect of outlook from first floor windows, privacy or loss of light are limited by these mitigating factors. Any harm arising to neighbours' living conditions would not be sufficient to weigh against the planning merits of the development.
13. Reference is made in representations about the effects of the development on trees in the rear garden of the appeal property, and the Council has suggested various conditions regarding those trees. However, the Council has not provided evidence demonstrating how the outbuilding has affected trees in the area, nor their status. There is no evidence before me to suggest the development has significantly affected important trees. Therefore, I give this matter limited weight.
14. Hard surfacing has been laid in the rear garden. However, those works do not form part of the proposal before me and, whilst I acknowledge representations have been made about these works, this matter has no bearing on my decision.

Conditions

15. The Council has suggested various conditions should the appeal be allowed. Conditions regarding the commencement of development and adherence to submitted plans are not necessary because the development has been completed. The Council also suggests conditions requiring the submission of details setting out measures to safeguard trees. However, for the reasons given above such conditions would not be reasonable or necessary.
16. In view of the elevated position of the outbuilding in relation to neighbouring properties, a condition preventing the use of the roof as a sitting out area would be reasonable and necessary to prevent overlooking of neighbouring gardens and thereby protect the privacy of neighbouring residents. However, I have modified the Council's suggestion by substituting the word 'extension' with 'outbuilding' in the interest of clarity, precision and consistency.
17. A condition limiting the use of the outbuilding to purposes incidental and ancillary to the use of the main dwelling is reasonable and necessary to safeguard the character of the area. I have modified the wording suggested by the Council in the interests of clarity and precision. Whilst I have not sought

comments on the changes I have made, the revised wording would not prejudice the interests of either main party.

Conclusion

18. For the reasons given above, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be allowed.

David English

INSPECTOR