



Appeal Decision

Site visit made on 11 November 2022

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 NOVEMBER 2022

Appeal Ref: APP/G5180/D/22/3298663
146 Chislehurst Road, Orpington BR6 0DT

- 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 John Swift against the decision of London Borough of Bromley.
 - The application Ref DC/21/05361/FULL6, dated 10 November 2021, was refused by notice dated 24 February 2022.
 - The development proposed is described as the conversion of an existing domestic outbuilding to provide a garden room, with facilities for family accommodation, entertainment and leisure use, incidental to the enjoyment of the house and garden. Alteration of existing doors, insertion of new door and windows, insulation, extension of the existing services - heating, electricity, water supply and drainage.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of an existing domestic outbuilding to provide a garden room, with facilities for family accommodation, entertainment and leisure use, incidental to the enjoyment of the house and garden. Alteration of existing doors, insertion of new door and windows, insulation, extension of the existing services - heating, electricity, water supply and drainage at 146 Chislehurst Road, Orpington, BR6 0DT in accordance with the terms of the application, Ref DC/21/05361/FULL6, dated 10 November 2021, 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 plan: Location, Block Plan, Floor Plan, Elevations – Drawing Number 2101/01 B.
 - 3) The use of 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 146 Chislehurst Road.

Main Issues

2. The main issues are the effect of the proposed development on 1) the character of the area, 2) the living conditions of occupants of surrounding properties, and 3) highway safety.

Reasons

Character of the area

3. The appeal site comprises a two-storey semi-detached property which has front and rear gardens. The rear garden contains a detached garage which is accessed via a shared driveway from Scalds Hill Close. There is a parking area directly in front of the existing garage. The surrounding area is predominantly residential in nature, with many properties containing rear outbuildings in a similar manner to the appeal property.
4. The proposed development would convert the garage to additional living space. The plans show there would be a bedroom, bathroom, and a living/kitchen/dining area. There would be external alterations comprising the installation of windows that would overlook the rear garden of the property and a door/window that would overlook the rear parking area.
5. The development does not result in the creation of a separate planning unit. The evidence shows that the appeal site comprises the whole of no. 146 Chislehurst Road. There is no severance or subdivision proposed.
6. The Courts have held that even if accommodation provides facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling – instead it would be a matter of fact and degree. There is no reason in law why such accommodation should consequently become a separate planning unit from the main dwelling.
7. It is not in dispute that the resulting space has facilities for day-to-day living. Importantly, however, it has the same outdoor amenity space and parking area as the main body of the dwelling. It is also in close proximity to the main body of the dwelling and is accessible from it. It is also proposed that the existing services are extended to serve the converted garage. The Council remain concerned that the resulting development could be severed from the remainder of the site and become a separate dwelling.
8. The creation of a separate dwelling is not before me. If the converted garage is not used as proposed, or if there is a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required, and the building would be at risk of enforcement action if such permission is not granted.
9. I agree that the introduction of an independent dwelling to the garden of the host dwelling is not appropriate for a variety of reasons. Nevertheless, the application form clearly states that the development is for the conversion of an existing domestic outbuilding to provide a garden room, with facilities for family accommodation, entertainment and leisure use, incidental to the enjoyment of the house and garden. The appellant does not claim to be seeking permission for an independent dwelling and furthermore the Council validated the application on this basis, including as a householder planning application.
10. It is clear to me that the proposed development is ancillary, in that it is in addition to, but of less significance, than the main part of the dwelling. It is considerably smaller than the main body of the dwelling and no subdivision of the garden or new boundary treatments are proposed. On this basis, I do not find that the conversion to ancillary accommodation would be harmful to the character of the area I have described above.

11. Policy 7 of the Bromley Local Plan (2019) deals with accommodation for family members and outlines that an extension to provide space for additional family members will be expected to meet the following criteria: a - the extension cannot be severed from the main dwelling-house, and b - is in-keeping with the design and scale of the existing dwelling-house, and c - access to the extension is provided and maintained through the original dwelling house.
12. In this case, severance from the main body of the dwelling is not proposed and the imposition of an appropriate planning condition, and the ability to take enforcement action were this to occur, means that the building cannot be severed from the main dwelling-house. It is an existing outbuilding that is in keeping with the area and the minor external alterations are also in keeping with the area. Access remains as existing and is unchanged, that being both from the front of the dwelling via a side path, and from the rear driveway. It would also be permissible to access the converted garage by going internally through the dwelling to the rear garden.
13. I therefore find that the proposed development would not cause unacceptable harm to the character of the area. It would comply with the requirements of Policy 7 outlined above, and Policy 37 of the Bromley Local Plan (2019) which requires good design in developments.

Living conditions

14. The proposed development would provide ancillary residential accommodation within an existing residential area. I do not consider that it would result in activities that would be unusual in a residential area such as this or lead to an increase in comings and goings that would have an unacceptable impact in terms of noise and disturbance.
15. I am not persuaded by the Council's case that harm would be caused to the living conditions of occupants of surrounding dwellings. Their argument suggests that there is a strong possibility that the garage would be severed and form a self-contained dwelling, and that this in turn may result in significant additional noise and disturbance. The argument is not substantiated, and whilst I have recognised the converted garage has facilities for day-to-day living, the creation of a separate dwelling is not before me, and there is not convincing evidence that it would occur.
16. Similarly, there is no substantive evidence that there would be an unacceptable impact in relation to noise and disturbance. In a manner akin to a residential extension, the development may lead to greater use of the property as a whole, however I do not consider that it would be to the extent that there would be unacceptable harm.
17. The proposed development would therefore not cause unacceptable harm to the living conditions of occupants of surrounding residential properties in terms of noise and disturbance. It would comply with Policy 37 of the Bromley Local Plan (2019) which requires, amongst other things, that development respects the amenity of occupiers of neighbouring buildings and not cause harm in terms of noise and disturbance.

Highway safety

18. The appeal property has existing vehicular access to the rear via a shared driveway. The garage sits adjacent to a hardstanding area used for parking of vehicles. The parking area would remain following the development.
19. The Council consider that the garage is part of the parking for the appeal property, however I am not presented with any evidence of a requirement that it is used or retained as such, and I therefore give this limited weight. Furthermore, the appellant has outlined that the garage is not used for parking, which is not disputed.
20. The Council raise concern in relation to the pedestrian access to the converted garage, which would be via the back lane, and that this would be undesirable. I agree that such a route, with no footpath or street-lighting, would be undesirable. As I observed on my site visit, and as the plans show, it is however possible to access the garage from Chislehurst Road and go through the rear garden or the main body of the dwelling and thus avoid the rear access.
21. Representations have referred to the impact in terms of on-street parking. I acknowledge that there is an existing occurrence of on-street parking on Scalds Hill Close. On my weekday morning site visit, it was not heavily parked, although I appreciate this may not be the case at all times. There was nothing to suggest that the on-street parking was causing harm to highway safety. Furthermore, there is no substantive evidence, that the proposed development would cause significant or severe impacts in terms of highway safety.
22. The proposed development would therefore not have an unacceptable impact on highway safety. It would comply with Policy 32 of the Bromley Local Plan (2019) which requires, amongst other things, that road safety is not significantly adversely affected.

Other Matters

23. The Council have referred to the technical housing standards – nationally described space standard document (2015) insofar that the accommodation would be approximately 36.5sqm which is below the requirement for a one or two person dwelling. As the proposed development is not for a separate dwelling, the standards are of limited weight. Even if the standards were applicable, the difference from the minimum amount is relatively minor, at 2.5sqm.
24. The Council comment that the garage was granted planning permission in 2005 for a maximum height of 2.08m and that the current plans show it to be 3.9m in height. The construction of the garage is not before me in the appeal. There is also no further evidence of the alleged breach and I have not been made aware of any enforcement proceedings. I therefore give this limited weight in the appeal.
25. Representation has referred to the restriction of the use of the premises to single dwellings being contained within the property deeds. Whilst my assessment above does not relate to the creation of a separate dwelling, planning permission would not override any legal covenants that may be applicable.
26. Although it is not included in the planning history for the property I have been provided with, the appeal property is referred to as being registered to be used

as a house in multiple occupation (HMO). This does not however change my assessment of whether the proposed development would be ancillary to the main dwelling. I am not presented with any evidence that the development would lead to an overall change of use of the appeal property.

Conditions

27. 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 plan for the avoidance of doubt and in the interests of certainty.
28. In the interests of the character of the area, living conditions and highway safety, to avoid the converted garage forming an independent dwelling, it is also necessary to impose a planning condition requiring that the development is ancillary to the main dwelling.

Conclusion

29. 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