



Appeal Decision

Site visit made on 19 December 2022

by Chris Couper BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th February 2023

Appeal Ref: APP/T5150/D/20/3258193

82 Lavender Avenue, London NW9 8HE

- 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 Ala Atiah against the decision of the Council of the London Borough of Brent.
 - The application Ref 20/1066, dated 31 March 2020, was refused by notice dated 17 August 2020.
 - The development proposed is described as a single storey side rear extension, front porch and outbuilding storage/gym.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey side/rear extension, a front porch and an outbuilding for use as storage/gym at 82 Lavender Avenue, London NW9 8HE in accordance with the terms of the application, Ref 20/1066, dated 31 March 2020.

Procedural Matters

2. The Council's decision refers, amongst other things, to policies in the Brent Development Management Policies Plan 2016 and in the Brent Core Strategy 2010. Its delegated report also refers to the draft London Plan.
3. However, the London Plan 2021 ('LP') has since been adopted, as has the Brent Local Plan 2019 - 2041 ('BLP'). Following a request for relevant policies from the adopted development plan, the Council provided me with BLP Policies DMP1 and BD1. The appellant was invited to comment on those policies, and it is them that I have referred to in my decision.
4. I have taken the description of the development in my banner from the application form. However, on the appeal form the development is described as a 'retrospective application'. I observed on my visit that a side/rear extension, front porch and outbuilding have been erected. However, there are some discrepancies between the development as built, compared to what is depicted on the submitted drawings.
5. In particular, whilst those drawings show that the side/rear extension would have a shallow pitched roof, I observed that it has a parapet, and there are slight differences in its glazing. The porch contains a different door design and windows to the sides.

6. In its delegated report, the Council also states that the interior of the outbuilding does not accord with the drawings as it contains an additional room, which it considers would be used as a toilet/shower in the future. It states that its use would therefore not be incidental to the main dwelling, and that it would thus be contrary to the advice in the Brent Residential Extensions and Alterations Supplementary Planning Document 2 (2018) ('SPD').
7. In his statement of case the appellant sets out that the interior of the outbuilding has not been completed, and that whilst divisions have been made within it, it contains no toilet or cooking facilities.
8. On my visit I observed that the interior of the outbuilding did not appear to be entirely complete, but that it did have a separate shower/WC. That said, I have considered the appeal on the basis that the outbuilding's principal use would be as a store/gym. The use of the outbuilding for purposes not ancillary to the host would involve the creation of a separate planning unit, which would require planning permission.
9. As the structures are already in place, I have dealt with the appeal on the basis of their retention. According to the Council's delegated report, they were already there at the time of the planning application, and consequently, notwithstanding the slight discrepancies between what has been built and what is on the drawings, I am satisfied that no parties' interests would be prejudiced by my approach.

Main Issues

10. The main issues are the effect of the development on:
 - the character and appearance of the host property and the area; and
 - the living conditions of the adjacent occupiers at 84 Lavender Road.

Reasons

Character and appearance

11. The SPD advises that in gardens of over 100sqm, outbuildings of no more than 30sqm may be acceptable, and that, if located within 2 metres of the boundary, their maximum permitted height is 2.5 metres
12. The outbuilding, as depicted on drawing no. ECDL/B/0301/1, is located at the end of the host's rear garden, and it is under 30sqm. Whilst it is positioned on a patio, I observed that its side and rear walls are not substantially higher than the adjacent garden fences, and it is set in from those boundaries.
13. From the conflicting evidence before me, I cannot be certain whether the outbuilding exceeds 2.5 metres in height from the original ground level. However, given its siting, its fairly limited proportions, and its flat-roofed form, it is not a particularly bulky structure. In the context of the area, where there are outbuildings of a broadly similar height located towards the end of some nearby properties' gardens, it does not appear markedly out of place.
14. Consequently, the outbuilding does not have a visually discordant impact on neighbouring occupiers and, given its limited size and its intended function, I am not persuaded that it would be so intensely used as to harm the area's character.

15. The Council does not object to the side/rear extension's design, and given the varied rear faces of dwellings in this part of Lavender Avenue, many of which, including Nos 78 and 80, have deep single storey extensions, neither do I.
16. The SPD advises that, in most cases, a proposed porch should not project beyond, or connect to, a bay window. This porch is separate from the adjacent bay window, but does project slightly beyond it. Nevertheless, I observed that there is no consistent style or theme to the porches in Lavender Avenue; and there are many others which project beyond bay windows or attach to them, some of which are referenced at paragraph 2.3 of the appellant's statement of case.
17. In that context, this porch has not harmed the host or the wider streetscene. In reaching that conclusion, I note that whilst the Council objected to the porch in its delegated report, that matter formed no part of its formal decision.
18. For those reasons, the scheme has not harmed the character and appearance of the host property or the area. On this issue, it does not therefore conflict with those parts of BLP Policies BD1 and DMP1 which, amongst other things, require high quality design which complements the area.

Living conditions

19. The SPD sets out that, in order to protect neighbouring residential amenity, single storey rear extensions on attached houses should normally be a maximum of 3 metres deep, but that up to 6 metres may be acceptable providing that for every extra metre beyond 3 metres, it is set in an additional metre from the boundary.
20. Given its depth, and as it virtually abuts the boundary with 84 Lavender Road ('No 84'), the side/rear extension here does not accord with that advice. However, the adjacent ground floor room at No 84 is served by a fairly wide set of windows with a patio door, which are set in slightly from the boundary, and the outlook from them is mainly straight down that property's fairly wide garden.
21. Although the side/rear extension can be seen from there to the side above the garden fence, its impact on those occupiers is tempered by its single storey height, and by No 82's lower ground level. Consequently, whilst neither the Council's decision, nor its delegated report specifically identify the harm that it considers the extension causes, I am satisfied that it has not had a significantly overbearing impact on those occupiers' outlook.
22. In reaching that conclusion, I also note that the Council previously found that prior approval was not required for a 6 metre deep rear extension to the host property, which would have been narrower, but would have been similarly positioned relative to the boundary with No 84 (Ref: 19/3902).
23. As a result, whilst the side/rear extension does not fully accord with the advice in the SPD, it does not conflict with that part of BLP Policy DMP1 which sets out that development will be acceptable if it provides high levels of amenity having regard to its impact on neighbouring occupiers.

Conditions and Conclusion

24. In the event that the appeal is allowed, the Council has suggested conditions requiring that the development be commenced within three years, that it be faced in matching materials, and that it be carried out in accordance with the approved plans. However, as the development is already in place, and as I have found it to be acceptable, none of those are appropriate.
25. The scheme has not harmed the character and appearance of the host property or the area, nor has it had a significantly harmful impact on the living conditions at No 84. Consequently, and having regard to all other matters raised, the appeal is allowed.

Chris Couper

INSPECTOR