



Appeal Decision

Site visit made on 7 March 2023

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th March 2023

Appeal Ref: APP/Z5060/D/22/3303243

150 Frizlands Lane, Dagenham, Barking and Dagenham, RM10 7HD

- 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 Ayotunde Ola against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application Ref 22/00584/HSE, dated 4 April 2022, was refused by notice dated 24 May 2022
 - The development proposed is a single storey outbuilding.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey outbuilding at 150 Frizlands Lane, Dagenham, Barking and Dagenham, RM10 7HD in accordance with the terms of the application, Ref 22/00584/HSE, dated 4 April 2022, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 22138-01 (Proposed Outbuilding Site Location Plan); 22138-02 (Proposed Outbuilding Floor Plan); 22138-03 (Proposed Outbuilding Existing Elevations); 22138-04 (Proposed Outbuilding Proposed Floor Plan); 22138-05 (Proposed Outbuilding Existing Elevations).
 - 2) The outbuilding hereby approved may only be used for purposes incidental to the enjoyment of the dwellinghouse as such. It may not be used for purposes conflicting with the use of the property as a single dwellinghouse and in particular, it may not be used as a separate unit of accommodation.

Preliminary matters

2. The Council has referred to policies contained within the submitted London Borough of Barking and Dagenham Draft Local Plan 2019 – 2037 (DLP). However, I have insufficient information to determine the current stage of preparation of the DLP or whether the referenced policies are the subject of any unresolved objections. Therefore, in accordance with paragraph 48 of the National Planning Policy Framework (2021) (the Framework), I afford the policies of the emerging plan limited weight in the determination of this appeal.
3. As the outbuilding had already been constructed at the time of my site visit, the proposal is retrospective.

Main Issue

4. The main issues are:

- Whether the proposed outbuilding is ancillary to the use of the application site as a dwellinghouse; and
- The effect of the proposal on the living conditions of the existing and future occupiers of the existing dwelling with reference to outlook and outdoor space.

Reasons

Use

5. The appeal property is a two storey, semi-detached dwelling located in a road comprising of properties of a similar character and appearance.
6. The outbuilding is sited towards the rear of the garden. It extends across much of the width of the plot and has a depth of 4.5 metres. It has a flat roof design, with a maximum height of around 2.9 metres.
7. The Council's Residential Extensions and Alterations Supplementary Planning Document (2012) (SPD) whilst non statutory, provides useful guidance. It states that the use of an outbuilding must be ancillary or related to the use of the property and that any unrelated use will normally be refused.
8. The outbuilding is located within the rear garden of the existing dwelling and as such can only be accessed via the existing property. In my view, how the building is arranged and used internally is a matter for the appellant provided that its use is for purposes incidental to the enjoyment of the dwellinghouse. On my site visit I observed that the building appeared to be used as a home office and a home gym, with associated w/c and domestic storage areas.
9. Therefore, I have no substantive evidence before me to suggest that the use of the building is for purposes that are not incidental to the enjoyment of the dwellinghouse. In the event that it were to be used for purposes that are unrelated to the main dwelling, a separate grant of planning permission would be required. I am also mindful that the Council has suggested the imposition of a condition that would further address this issue.
10. Thus, I find no conflict with Policy D4 of the London Plan (2021) (LP), Policy CP3 of the LDF Core Strategy (July 2010) (CS), Policies BP8 and BP11 of the LDF Borough Wide Development Policies Development Plan Document (March 2011) (DPD), the National Planning Policy Framework (the Framework), or the SPD which collectively require development to be of a high-quality design and to respect existing character.
11. The proposal also accords with draft Policies SP2, DMD1 and DMD6 of the DLP in this regard which seek to promote high quality design that responds positively to local distinctiveness, character and site context.

Living conditions

12. The existing dwelling has a single storey extension to the rear. The outbuilding is separated from the rear elevation of the extended dwelling by at least 4.5 metres. Having regard to the flat roof design, the overall height of the

outbuilding of less than 3 metres, and its fenestrated front elevation, in my view it does not significantly detract from the outlook of the dwelling and thus, would not be materially harmful to the living conditions of existing or future occupiers.

13. The appeal property retains a garden area to the side and rear of the existing rear extension which is currently block paved. Whilst the overall size of the garden has been reduced by the outbuilding, I am satisfied that sufficient usable private outdoor space has been retained given the width of the plot and its practicable shape. Moreover, I have not been made aware of any local standards with regard to the provision of outdoor space.
14. The Council has highlighted that prior approval for a 6 metre rear extension (19/01383/PRIOR6) has been granted at the appeal property and that planning permission has also been granted for the construction of single storey side and part two storey, part single storey rear extension¹. Neither scheme had been implemented at the time of my site visit. Although I do not have any further details of either scheme, I acknowledge that their implementation would inevitably result in additional built coverage. However, there is no certainty that these permissions will subsequently be implemented, and I therefore attach limited weight to this consideration.
15. I therefore conclude that the proposal would not have a harmful effect on the living conditions of existing or future occupiers of the existing dwelling with particular reference to outlook and outdoor space. It therefore accords with Policies D4 and D6 of the LP, Policy CP3 of the CS, Policies BP5, BP8 and BP11 of the DPD, draft Policies SP1, SP3, DMD1 and MDM6 of the DLP and the SPD in so far as these policies and guidance seek to protect the amenity of existing and future occupiers. It also complies with paragraph 130(f) of the Framework in this regard.

Other Matter

16. Whilst not a refusal reason, the officer report raises concern regarding the effect of the proposal on the living conditions of occupiers of Nos 148 and 152 Frizlands Lane, with particular reference to outlook.
17. There is a wall of about 2 metres in height along both side boundaries of the appeal property. As the outbuilding is approximately 2.9 metre high it would be visible from neighbouring gardens. The outbuilding is set off the boundary with No 152 and I observed on my site visit that No 152 has several buildings alongside the boundary with the appeal site. In my judgement the appeal proposal would not appear visually prominent when viewed from No 152 given this context and would not have a significant effect on the living conditions of the occupiers of that dwelling.
18. The proposed outbuilding abuts the boundary with 148 Frizlands Lane. It is however set a reasonable distance away from windows on the rear elevation No 148 and given the height of the boundary wall and the building's flat roof design, I do not consider that it would be unduly prominent or obtrusive. It would also be viewed in the same context as an outbuilding which is sited towards the rear boundary of No 148. I am therefore satisfied that the proposal would not result in material harm to the outlook of the occupiers of No 148.

¹ LPA ref. 21/00996/HSE

Conditions

19. The standard implementation condition is not required as the development has already taken place. I have imposed the approved plans condition to provide certainty. I have also imposed a condition to prevent the use of the building for non-incidental purposes including use as a separate dwelling to ensure that its use remains ancillary to the dwellinghouse. This is required to protect the character and appearance of the surrounding area and to safeguard the living conditions of existing, future and neighbouring occupiers.

Conclusion

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

J Davis

INSPECTOR