



Appeal Decision

Site visit made on 13 November 2023

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 24 January 2024

Appeal Ref: APP/T5150/W/23/3315838

Flat A, 26 Burrows Road, London NW10 5SG

- 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 Miss Ragnhild Totland against the decision of the Council of the London Borough of Brent.
 - The application Ref 22/3117, dated 19 October 2022, was refused by notice dated 19 December 2022.
 - The development proposed is retrospective planning permission for single outbuilding in rear garden to ground floor flat
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Decision

1. The appeal is allowed and planning permission is granted for a single outbuilding in rear garden to ground floor flat at Flat A, 26 Burrows Road, London NW10 5SG in accordance with the terms of the application Ref 22/3117, dated 19 October 2022 and 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 plans: A.01 Side Elevation Pre Existing and Existing dated 23 January 2023; A.02 Existing Floor Plan dated 23 January 2023; A.03 Existing Front Elevation dated 23 January 2023; A.04 Existing Plan dated 23 January 2023; and Site Location Plan.
 3. The outbuilding as approved shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Flat A, 26 Burrows Road, London NW10 5SG and shall not contain a kitchen, bedroom or bathroom.

Preliminary Matters

2. I have taken the description of development from the Council's decision notice as this is a more succinct description than that in the application form.
3. The appellant has submitted updated drawings with the appeal, slightly amending the dimensions of the outbuilding. I am satisfied these are minor alterations and, as part of the appeal, the Council has had the opportunity to provide comments. As such, I am satisfied there is no risk of prejudice if I take the amended plans into account. I have therefore determined the appeal on this basis.
4. At the site visit I noted that the site layout with raised patio and outbuilding as built does not fully accord with the submitted plans, and this was also referenced in the

Council's submissions. In view of the differences between the plans and the as built outbuilding, I am unable to consider the appeal as seeking permission for the works undertaken. I have therefore considered the proposal on the basis of the plans submitted with the application and that were in front of the Council at the time of its decision rather than the structure as built on site, as I am obliged to do. Further, while the Council has raised concerns relating to the inaccurate scale bar on the plans the specific dimensions of the proposal are detailed, such that I am satisfied they provide certainty on the proposal to be constructed.

5. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.

Main Issues

6. The main issues are: whether the development complies with the provisions of Policy BH12 of the Brent Local Plan 2019-2041; the effect of the development on the character and appearance of the area; and the effect of the development on the living conditions of surrounding occupiers.

Reasons

Policy BH12

7. The site is the rear garden of the ground floor flat of No. 26A Burrows Road, within which a detached single storey outbuilding has been erected. The surrounding area is primarily residential in nature, with examples of detached, single storey structures in the rear gardens of nearby properties visible from the site.
8. Policy BH12 of the Brent Local Plan 2019-2041 (the BLP) states that planning permission will only be granted for outbuildings that will not be residential accommodation or do not support increased occupation of a dwelling. Explanatory text states that applications should provide clarity on the purpose of the building and agree to a condition restricting its use to not include bathrooms and other specified rooms. The Residential Extensions and Alterations Supplementary Planning Document 2018 (the SPD) echoes the provisions of Policy BH12, advising that submissions demonstrate the outbuilding is for incidental purposes and does not include primary accommodation such as bathrooms, shower rooms or toilets.
9. The appellant submits that the purpose and function of the outbuilding is incidental to the residential use of No. 26A in that it would be required for additional storage and workspace. It is further stated that the outbuilding would not create residential accommodation and that it is not intended to increase the occupation of the host dwelling and supporting plans show the outbuilding to comprise storage/ studio space with an area for utilities. I noted that the as-built structure at the site contains a shower room with toilet in the room marked as utilities space. However, even acknowledging concerns regarding independent occupation, that is not the scheme before me.
10. Accordingly, on the basis of the evidence as it is before me, including the submitted plans, the proposed outbuilding would be for purposes incidental to the residential use of the main dwelling. There is nothing substantive to suggest that it would create residential accommodation or increase the occupation of the main dwelling.

Furthermore, I am satisfied that the incidental use of the proposal and nature of the rooms within it could be secured by a suitably worded condition.

11. For the reasons given, subject to the aforementioned condition, the proposal would comply with Policy BH12 of the BLP insofar as it seeks to ensure planning permission is granted only for outbuildings that would not be residential accommodation or do not support the increase occupancy of a dwelling.

Character and appearance

12. The Council's SPD2 Residential Extensions and Alterations (SPD2) states that in gardens less than 100sqm, outbuildings up to 20sqm are normally acceptable. It also advises that outbuildings should be in the final fifth of the garden and that those within 2m of a neighbouring boundary should be no taller than 2.5m. This represents guidance rather than policy, but remains a material consideration in the appeal.
13. Submitted plans show that, although the proposal would not be set back from the boundaries with neighbouring properties, it would be single storey with a height of 2.42m. In addition, main parties agree that the proposal would have an acceptable footprint within the rear most part of the garden, and that the external materials would assimilate within the immediate area. As such, the proposal would comply with the guidance of SPD2.
14. I noted that similarly sized and positioned outbuilding structures are located within the rear garden of surrounding properties visible from the site, including at No. 24 immediately to the east of the appeal property. As such, the erection of the proposal would not result in a feature that would appear alien or incompatible with the character and appearance of the immediate vicinity. Furthermore, given that it would be incidental to the residential use of the main dwelling house, it would not introduce a level or type of use or activity that would be out of place within the surrounds.
15. For the reasons given above I find that the proposal would not have a significant adverse effect on the character and appearance of the area. As such, it would comply with Policy DMP1 of the BLP, the SPD and SPD2 insofar as they seek to ensure development that is of a siting, use, scale and design that complements the locality.

Living conditions

16. Given the tight knit and linear nature of the surrounding properties, the proposal would be experienced by residents of dwellings both within the immediate vicinity on Burrows Road and Ashburnham Road, from rear habitable room windows and amenity spaces. This would inevitably create a change in outlook due to the addition of this element of built form.
17. However, the outbuilding would be single storey in nature, constructed from complimentary materials, and located in the rear most part of the appeal site some distance from the main dwellings in these neighbouring sites so as to not to overlook these spaces or appear as an overbearing feature when viewed from these surrounding locations. In addition, although it would have little separation from side and rear boundaries of the appeal site, it would be experienced among similarly structures in surrounding gardens, including that in the immediately neighbouring garden of No. 24. In this context, it would not unduly impact the outlook experienced by residents of surrounding properties

and would not significantly impact neighbouring occupiers' enjoyment of their gardens or habitable rooms along the rear elevation.

18. The plans show the outbuilding is to be for uses ancillary to the main dwelling. Accordingly, its use would be unlikely to be different to that normally expected from a residential area, including any associated noise, disturbance or light. Coupled with the distance from the main dwellings in neighbouring sites, and the presence of nearby outbuildings, any such light, noise and associated disturbance arising would not be unacceptably substantial or unduly out of place in context.
19. For the reasons given, I find that the proposal would not have a significant adverse effect on the living conditions of occupiers of surrounding dwellings with particular regard to privacy, outlook, light, and noise and disturbance. As such, it would comply with Policy DMP1 of the BLP and the SPD insofar as they seek to ensure development provides high levels of amenity and does not lead to an unacceptable increased exposure to noise, light and other forms of general disturbance.

Other Matters

20. Interested parties have expressed concerns regarding the potential occupation and letting out of the proposal. However, the scheme before me is for an outbuilding with incidental use to the main dwelling. In addition, while interested parties cite potential anti-social behaviour due to the proposal, there is nothing substantive before me to demonstrate that this would be likely to arise. I note concerns regarding the building standards of the proposal but compliance with building regulations is separate to the planning regime. I note that there is a pending enforcement matter at the site. However, this is separate to the scheme before me.

Conditions

21. The main parties did not suggest any conditions in the event that planning permission was granted for the proposal. Given my comments above about the proposal as depicted on the plans, I have attached the standard time limit condition as well as a condition that the development is carried out in accordance with approved plans. I deem these necessary for certainty and in the interests of proper planning. A condition to ensure that the outbuilding remains ancillary to the main dwelling is also necessary for the avoidance of doubt and in the interests of the character and appearance of the area and the living conditions of neighbouring occupiers. The main parties have been given the opportunity to comment on this condition.

Conclusion

22. For the reasons given, the proposal would accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be allowed subject to the conditions at paragraph 1 of this decision.

C Rafferty

INSPECTOR