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## Appeal Decision

Site visit made on 1 March 2024

**by S. Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS**

**an Inspector appointed by the Secretary of State**

**Decision date: 05.03.2024**

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**Appeal Ref: APP/W1905/D/24/3336249**

**34, Kingsley Avenue, Cheshunt, Hertfordshire EN8 9PT**

- 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 Tarkan Burmali against the decision of Broxbourne Borough Council.
  - The application ref: 07/23/0867/HF, dated 8 October 2023, was refused by notice dated 28 November 2023.
  - The development proposed is for a retrospective planning application for an outbuilding into a habitable room to be used as ancillary to the main building.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The appeal is made retrospectively for development already constructed.
3. The applicant describes the proposed development in the following terms:-  
*'We are changing the use of the outbuilding to be used ancillary to the main dwelling. So, in order to do this we've had to plumb in to the mains in the rear garden, which is what the application is for.'*
4. The local planning authority (LPA) describes the proposed development for 'a retrospective planning application for an outbuilding into a habitable room to be used as an ancillary to the main building.'
5. In the interests of precision, I have used the LPA's description of development in the banner heading above.
6. The National Planning Policy Framework 2023 (the Framework) was amended on 19 December 2023. The amendments made did not have a material bearing upon the main issues in this appeal, and it was therefore not necessary to seek comments from the main parties upon it. Where I have referred to the Framework, it is that of the December 2023 version.

### Main Issues

7. The main issues are (i) the suitability of the amount of private amenity space and (ii) the impact upon parking.

## Reasons

### *Private amenity space*

8. The LPA describes the host property as a three-bedroom dwelling and the appellant has not disagreed. The submitted plans show the appeal building as being proposed to be used as a bedroom plus shower room, thus creating a four-bedroom property.
9. The Council's Borough Wide Supplementary Guidance 2013 (SPG) states that a four-bedroom dwelling should have a minimum amount of private amenity space, preferably to the rear of the property, of 80m<sup>2</sup>. The appellant considers that the existing rear amenity space has an area of approximately 63m<sup>2</sup>, while the LPA, in its officer report, states that *'post development, approximately 54m<sup>2</sup> of rear garden amenity space remains'*.
10. While the SPG accepts that not all development proposals warrant the rigid application of fixed standards, the difference between the private open space standard and the actual available space is considerable, even accepting the appellant's figure of its area.
11. The purpose of the SPG in general is to meet the Council's aspirations for more generous amenity standards, and more particularly so far as private amenity spaces are concerned, it recognises that *'as the size of a household increases, so the demand for garden space can also be expected to increase. Furthermore, with lower density housing, garden size in relation to house size is an important factor in establishing a balance between openness and the built form.'*
12. Therefore, I conclude that the use of the appeal building as an annexe for the purposes stated conflicts with the SPG. In this regard, therefore, it also does not accord with chapters 8 and 12 of the Framework which, amongst other things, require the provision of green spaces so as to provide a high standard of amenity to existing and future users. I do not consider that LP policy EQ1, given as a reason for refusal, is pertinent as it refers to impacts upon others, rather than upon the occupiers of the appeal property.

### *Parking standards*

13. The LPA considers that the use of the annexe as an additional bedroom makes the host property a four-bedroom dwelling, and I have no evidence before me which contradicts this. LP policy TM5 requires a four-bedroom dwelling, as stated in its associated appendix, to provide three parking spaces. The appellant states that there are two such available spaces and which on my site visit I was able to confirm.
14. However, the above policy is not a rigid one and it notes that *'the Council will seek a sensible balance of car and cycle parking spaces based on the nature of the proposal, site context and wider surrounding area, and accessibility of shops, services and sustainable transport infrastructure, with the overall aim of reducing private car use'*.
15. Furthermore, the Framework states at paragraph 115 that *'development should only be prevented or refused on highways grounds if there would be an*

*unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe’.*

16. In addition, the LPA in its officer report, acknowledges that the Highway Authority has not objected to the development.
17. On my site visit, I was able to note, even though it was only a snapshot in time, that there is available on-street parking.
18. Therefore, I conclude that while there is some conflict with LP TM5, when the conflict is set against the context of the area, coupled with both the Framework and the consideration of the Highway Authority in this matter, there are sufficient grounds in this instance for overriding the apparent conflict with the LP policy.

### **Conclusion**

19. While I have concluded that the development would not be so contrary to LP policy relating to car parking to justify the dismissal of the appeal, I have concluded that there would be insufficient private amenity space for the development.
20. Therefore, the appeal should be dismissed.

*S. Hartley*

INSPECTOR