

Appeal Decision

Site visit made on 8 May 2024

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd May 2024

Appeal Ref: APP/M5450/D/24/3341897

3 Warden Avenue, Rayners Lane, Harrow HA2 9LP

- 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 Nagabhushan Pattanaik against the decision of the Council of the London Borough of Harrow.
 - The application, Ref. PL/0762/23, dated 6 December 2023 was refused by notice dated 31 January 2024
 - The development proposed is a change of use of outbuilding at the rear from a gym to an annexe ancillary to the dwelling (retrospective application).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the use of the outbuilding as regards its form of occupancy.

Reasons

3. I saw on my visit that No. 3 Warden Avenue is a mid-terrace house in a group of six dwellings set back from the road with frontage parking. Immediately to the west is Berriton Road, from which there is access to a short rear service lane annotated on the application plan as a 'shared accessway' at the rear of Nos. 5 & 7 Warden Avenue and which ends at the appeal dwelling's outbuilding at the bottom of the garden.
 4. On the eastern flank of the terrace is another service lane from Warden Avenue and this provides rear access to shops in Alexandra Avenue. This service area is separated from the outbuilding by three lockup garages and the end of the gardens of Nos 1 & 1a Warden Avenue.
 5. The outbuilding, formerly a gym, has been fitted out to a high standard and includes a kitchen/living area and a bathroom. At the time of my visit the living area had a desk and office chair and was being used as a workspace. However, I note from the officer's report that there was at one stage a bed that has since been removed. Overall, despite the limited floor area the outbuilding has all the necessary facilities for comfortable self-contained living.
 6. The appeal application seeks a change of use from the gym to '*use as an annexe ancillary to a dwelling*'. In the grounds of appeal it is argued for the appellant that because (i) the Council processed the application under the
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householder procedure and (ii) the application description refers specifically to the outbuilding's proposed use as an annexe ancillary to a dwelling, there is no ambiguity. Accordingly the grounds of appeal assert that the Council are wrong to make the assumption that it is incumbent upon the appellant to provide evidence to demonstrate that the use would indeed be ancillary to the host dwelling.

7. However, whilst it is clear that the accommodation is capable of being used as ancillary to No. 3 Warden Avenue, it is also a matter of fact that there is a pedestrian access to a narrow area immediately to the side of the outbuilding from the shared accessway as shown on the application plan. This is a direct link from Berriton Road that facilitates the independent use of the outbuilding as a separate dwelling with a strong likelihood of neither disturbance to, nor observation by, the occupiers of the host dwelling or indeed any of the neighbours.
8. Bearing in mind that this access is entirely unnecessary for the outbuilding's use as accommodation ancillary to the host dwelling (and indeed could be regarded in itself as undermining the security of No. 3 Warden Avenue) I consider it is reasonable for the Council to come to the conclusion that change of use of the outbuilding could fall within the ambit of '*garden land development*'. This is precluded under Policy CS1 B of the Harrow Core Strategy 2012 ('the Core Strategy') and is referred to in more detail in the Harrow Supplementary Planning Document ('the SPD'): Garden Land Development April 2013.
9. Paragraph 3.5 of the SPD states that '*For the purposes of implementing Core Strategy CS1 B, garden land development means any development on garden land that results in the formation of one or more dwellings typical examples include c. the construction or conversion of domestic outbuildings for use as independent dwellings*'.
10. I do not accept the appellant's argument that the Council is unable to raise as an issue the potential for independent use of an outbuilding because it has processed the application under the Householder procedure. Nor do I consider that because the planning application has been described by an applicant as '*an annexe ancillary to the dwelling*' this precludes consideration that the outbuilding could potentially be used independently of the host property.
11. Although there are exceptions, for example development in the Green Belt, it is correct to argue that normally an applicant does not have to explain the 'need' for a particular development. However it is nonetheless common practice for applications for ancillary domestic accommodation in the curtilages of dwellings to be supported by information as to why additional and separate living facilities are required. 'Granny annexes' and a family member needing to cope with long term ill health (and in both cases their associated privacy and practical needs) are among the more frequent reasons.
12. In the appeal application there is no such evidence forthcoming and when combined with the fact that the accommodation can be accessed and used entirely separately from No. 3 Warden Lane I consider that the Council is correct to find that on the balance of probability there may well be an independent use. Such a use would be in harmful conflict with the relevant policies of the London Plan 2021; the Core Strategy; the Harrow Development

Management Policies Local Plan 2013; the SPD and Government policy in the National Planning Policy Framework 2023.

13. For the above reasons I conclude that on balance the appeal should fail. I have considered the other permissions referred to by the applicant but the particular circumstances of this appeal are such as to reduce the materiality of ostensibly comparable cases.
14. I have also had regard to the imposition of a condition restricting the use of the building as ancillary to the host dwelling. However, bearing in mind the independent access to the building and the absence of any supportive evidence of the requirements for the residential use, including the provision of both kitchen and sanitary facilities, I remain unconvinced of the condition's long term enforceability. In this context, I am also taking into account that such a condition runs with the land and therefore includes any future owners and occupiers, not just the applicant / appellant.

Martin Andrews

INSPECTOR