



Appeal Decision

Site visit made on 22 April 2025

by **John D Allan BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 May 2025

Appeal Ref: APP/M5450/D/25/3359485

62 Hutton Lane, Harrow Weald, Harrow, HA3 6RD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Sanjay Perera against the decision of the Council of the London Borough of Harrow.
 - The application Ref is PL/2569/24.
 - The development proposed was described as the erection of a 'Granny Annex'.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached outbuilding at rear for use as a granny annex incidental to the main dwelling at 62 Hutton Lane, Harrow Weald, Harrow, HA3 6RD in accordance with the terms of the application, Ref PL/2569/24, and the plans submitted with it, subject to the following condition:
 - 1) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling at 62 Hutton Lane, Harrow Weald, Harrow, HA3 6RD, and shall not be used, let, or sub-let as a separate self-contained unit.

Background

2. The appeal relates to a single-storey building located at the foot of the garden to the appeal property. Planning permission (LPA Ref P/2850/16) was granted in 2016 for development described by the Council as '*Outbuilding to be used as a gym*'. An application for a certificate of lawful development (CLD), described as '*outbuilding with use of a kitchen*' was refused by notice in 2023 (LPA Ref P/4386/22). A subsequent appeal (Ref APP/M5450/X/23/3324188) was dismissed in February 2024. The Inspector noted at the time of their visit that the outbuilding was laid out with a bedroom, kitchen, and bathroom, with all the facilities required for day to day living. Based upon the nature of the application that was made, and the information available to them, the Inspector determined it was likely the building had been constructed with the facilities required for day to day living from the outset and that it had not be shown, on the balance of probabilities, that the use of the outbuilding was part and parcel of the residential use of the main dwelling and therefore within the same planning unit. He concluded overall that the use of the outbuilding at the date of the LDC application was not lawful.
3. The Council's decision notice for the current appeal proposal described the works as '*Detached outbuilding at rear for use as a granny annex incidental to the main*

dwelling (Retrospective)'. This was repeated by the appellant on the appeal form. Notwithstanding, the banner heading above uses the description that was given on the original planning application form, which I note also confirms that the works for which planning permission was sought were started without consent in August 2018 and completed in November 2018. My formal decision uses the same words as the decision notice, which better explains the nature of the development.

Main Issues

4. The main issues are the effects of the development upon the character and appearance of the area having specific regard to its occupancy, and upon flood risk.

Reasons

Character and Appearance

5. It was evident to me during my visit that there was little if any difference between the layout of the building when the CLD appeal was determined and those as they currently exist. The outbuilding was laid out with a bedroom, kitchen, and bathroom with all the facilities required for day to day living. However, the last appeal was considering an application under section 191(1) (a) of the Town and Country Planning Act 1990 (as amended) which sought to establish whether the existing use of the building at the time the application was made was lawful. The planning merits of the case did not form part of the assessment.
6. The Council has argued the outbuilding could potentially be occupied in a manner that would function independent of No 62, primarily due to the absence of any evidence to demonstrate how the proposal would remain ancillary to the dwelling and the fact that it could be accessed independently via a pedestrian access to the rear garden leading from Hutton Lane to the side of the house.
7. I understand the facility is intended for use by the appellant's grown-up children when they visit. I have no doubt that in these circumstances the outbuilding would be used ancillary to the principal accommodation at 62 Hutton Lane. I equally have no doubt that given the range of facilities available within the building, it could function as a separate dwelling.
8. Dealing with the access, this sits within the curtilage of the appeal property and is a normal and necessary means of entry and egress on foot to the property's rear garden. I saw for myself the path wraps around the rear outside corner of the dwelling and continues down the garden in a more central position to the outbuilding through the otherwise lawned back garden. Use of this path by an independent occupier of the outbuilding would be highly intrusive within the rear garden setting of No 62 and likely to cause significant disturbance to the occupiers. The presence of the side access does not signify to me any increased likelihood of the outbuilding being independently occupied as a separate dwelling.
9. The appellant has argued that because the application was submitted and considered as a household application the Council was wrong to raise issue with the potential independent use of the building. I disagree for the same reasons expressed by the Inspector in his decision dated 23 May 2024 relating to a similar case at 3 Warden Avenue within the London Borough of Harrow which has been brought to my attention by the Council (Ref APP/M5450/D/24/3341897). It is

entirely reasonable for the Council to have considered how the outbuilding may function, especially in light of how garden land development is precluded under Policy CS1 B of the Harrow Core Strategy 2012 (CS), and which is referenced in more detail within the Council's *Supplementary Planning Document Garden Land Development* (SPD), adopted in 2013.

10. However, unlike the case at Warden Avenue, the appellant has explained that there would be a familial relationship between any occupiers of the outbuilding and the main household. I have also had regard to the fact that the rear garden space is obviously shared, as is access to it; that the size of the outbuilding is modest, clearly much smaller than the main house; and that it is sited in reasonable proximity to it with mutual and direct intervisibility between both buildings. Given all of these factors, I find the circumstances between the case at Warden Avenue, as explained in that appeal's decision notice, and those at 62 Hutton Lane to be demonstrably different.
11. I understand some other appeal decisions have supported the Council's similar reasoning in other cases. But such decisions turn on the individual merits of each case. In this instance, based on the information presented to me, I find on the balance of probability there would be no likely independent use of the outbuilding and that both it and the host dwelling would function as a single planning unit. Should the building not be used as proposed, or if there were to be a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required, and the building would be at risk of enforcement action if such permission is not granted.
12. The Council's officer's report notes that the outbuilding by way of its design, size and scale is not out of character with the size and location of outbuildings in the surrounding area. I do not disagree. I saw it to be reflective of many other outbuildings to the rear of properties along this side of Hutton Lane in terms of size, form, and position. In light of my findings with regard to its use, I conclude that the development is not detrimental to the character, appearance, or function of the appeal site's rear garden setting or that of the wider area.
13. As I have found that the outbuilding does not constitute an independent dwelling and therefore inappropriate development of garden land, as defined within the SPD, there is no conflict with the Council's spatial strategy for the growth of new homes, as set out within CS Policy CS1 part A, or with how CS1 part B seeks to avoid harm to the character of suburban areas. For that same reason I find no conflict with any relevant parts of Policy DM1 of the Harrow Development Management Policies (DMP), adopted in 2013, or with relevant parts of Policy D3 of The London Plan 2021 (LP) as far as they seek to secure a high standard of development that respects local character and distinctiveness.

Flood Risk

14. It is clear that the building has existed since at least late 2018 in its current form. I note also that planning permission was granted for a building of similarly modest size and position in 2016. Although the site lies within a critical drainage area, there is no suggestion, or evidence to demonstrate, that the existence of the building has contributed in any way to increased flood risk from surface water run-off. Based on the information before me I am unable to conclude that the development has resulted in any harmful conflict with CS Policy CS1 Part U, DMP Policies DM9,

DM10, DM12, or LP Policies SI 12 and SI 13 as far as they relate to managing flood risk.

Conditions

15. I agree with the Council that, for the avoidance of doubt, in the interests of maintaining the character and appearance of the area, and to safeguard the living conditions of neighbouring occupiers, a condition is necessary to control the future use of the building. The Council has not suggested any further conditions in the event of the appeal succeeding and as the development has already taken place, I have no reason to consider imposing any myself.

Conclusion

16. For the reasons given above, the appeal is allowed.

John D Allan

INSPECTOR