



Appeal Decision

Site visit made on 18 June 2025

by **D Cramond** BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 July 2025

Appeal Ref: APP/T5150/D/25/3365574

64 Evelyn Avenue, London, NW9 0JH

- 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 Aisha Bibi Ali against the decision of Brent Council.
 - The application Reference is 25/0546.
 - The development proposed is a single storey rear extension and single storey outbuilding in the rear garden of the dwellinghouse.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension and single storey outbuilding in the rear garden of the dwellinghouse at 64 Evelyn Avenue, London, NW9 0JH in accordance with the terms of the application, Ref P/2025/0250, subject to the following conditions:
 1. The development hereby permitted shall be carried out in accordance with the following approved plans: ALI 001 Rev 0; 002 REV 0; 003 REV 0; 004 REV 0 & 005 REV 0.
 2. The outbuilding hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 64 Evelyn Avenue, London, NW9 0JH.

Preliminary Matters

2. The development has been largely completed; this does not alter my approach to assessing the proposal.
3. The Council's concerns rest only with the outbuilding. For the reasons given by the Council I would agree on the acceptability of the rear extension and my assessment which follows accordingly only relates to the proposed outbuilding.

Main Issues

4. The main issues are a) the principle of the content of the outbuilding and b) the effect of the proposal on living conditions of neighbours.

Reasons

5. The appeal property is an extended two-storey semi-detached home on a rectangular plot with a reasonable length of rear garden and the side of the rear garden of 'round the corner' 95 Grove Crescent beyond. It sits in a stretch of broadly similar homes and the immediate locality is of established residential
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character; the suburban streetscene is a pleasing one albeit car parking is prominent. Rear building lines are varied and there are a range of outbuildings to be seen locally.

6. The proposal is as described above, and the outbuilding would have a flat roof about 2.85 metres in height and external ground dimensions of around 5.55 x 5.37 metres.

Planning principle

7. The Council has a Brents Residential Extensions and Alterations SPD (SPD) which sets out criteria for outbuildings. A key aim is to seek to ensure that the building remains in use incidental to the dwellinghouse and not as separate accommodation. The Council's specific concern in this instance is that the structure would appear to include a shower; and this is one example in the SPD of facilities which it feels would run contrary to the above key aim.
8. For my part, in this instance, I am prepared to take a more flexible approach given the scale of the scheme, the lack of most other facilities, the functional dependency such as refuse, utilities, and access; and the Appellant's statement over intent and willingness to accept a controlling planning condition. It is put that the structure would be incidental in scale and character to the main dwelling and is designed for flexible family use.
9. The SPD is guidance and cannot be expected to cover every eventuality. I am also cognisant that the judge in *Uttlesford DC v SSE & White [1992]* considered that, even if the accommodation provided facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling – instead, it would be a matter of fact and degree. In that case, notwithstanding some facilities, there was no reason in law why such accommodation should consequently become a separate planning unit from the main dwelling.
10. I need to assess whether the outbuilding could be capable of being occupied as an annex. On this point, my judgement is that the specific scheme before me could reasonably be deemed an annex.
11. On the general matter of composition of the outbuilding, I would underline that there is no separate dwelling before me. If the structure is not built or used as proposed, or if there is a material change of use in the future to create an independent 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. I therefore conclude that on this main issue there would be no unacceptable breach of the SPD. The scheme would also not run contrary to Policies BH13 and DMP1 of the Brent Local Plan 2019-2041 (LP) which, taken together and amongst other matters, seek suitable well-designed development of an appropriate type for its setting and having regard to immediate and wider amenity considerations.

Living conditions

13. The Council considers that, given the outbuilding's height in close proximity to the boundary there would be an unacceptable impact on the neighbouring amenity of

62 Evelyn Avenue and 95 Grove Crescent. The case is put that this would be contrary to the amenity protection considerations of LP Policy DMP1 and guidance in the SPD. The SPD calls for an outbuilding height not to exceed 2.5m if within 2m of a boundary. In this case the scheme would lie 1.6m from No 62 and on the boundary with No 95.

14. My assessment of the situation is that with a roof height of 2.85m maximum and a distance of some 1.6m from the side at end of the rear garden of No 62 the difference from the guidance (2.5m at 2m) would be marginal. In reality, given scale and layout of gardens, varied paraphernalia found locally, and the height and position of this particular structure there would be no undue impact upon people in No 62 whether inside their house or in their rear garden.
15. Turning to No 95, I noted that this property lies on higher ground which would help to lessen any impact in terms of bulk or height. At the same time the part of garden in question is to the southeast of the planned structure and thus sunlight would be no real issue. The proposed building would be towards the end of the garden for these neighbours, and I noted that higher structures and walls are already found in closer proximity to the most important part of the garden nearest to the dwelling. In all I am not convinced that, in this specific instance only, what would effectively be a wall along a short length of boundary running at no more than 2.85m would cause any unacceptable loss of amenity.
16. Given all the circumstances I conclude that the development would not conflict with LP Policy DMP1, or the amenity aims of the SPD, which as a guidance document cannot be expected to cover every eventuality and can, on occasion, be treated with modest flexibility.

Conditions

17. There is no need for the standard commencement condition as works have proceeded, and similarly a condition on matching materials is unnecessary given finishes which have been selected and, in any event, the specifications are stated in the application material. I agree with the proposition of a condition that works are to be carried out in accordance with listed approved plans, as this provides certainty. As also suggested, there should be a condition to restrict future use in the interests of amenity. My wording on this is a simplified version of that proposed by the Council.

Overall conclusion

18. For the reasons given above, I conclude that the appeal proposal would not be unacceptable in principle, nor would there be undue adverse effects on the living conditions of neighbours. Accordingly, the appeal is allowed.

D Cramond

INSPECTOR