

APPEAL AGAINST REFUSAL OF PLANNING PERMISSION

LONDON BOROUGH OF HILLINGDON (“**Council**”)

APPLICATION REF: 10285/APP/2015/12

15 ROSS CLOSE, HAYES, MIDDLESEX, UB3 1TS (“**Property**”)

This is an appeal against the Council’s decision to refuse planning permission for a proposed development at the Property under the Town and Country Planning Act 1990 (as amended) (**TCPA 1990**).

Decision

By the Decision Notice dated 25 February 2015, the Council refused planning permission for:

“Part conversion of existing single storey outbuilding to habitable use for use as a granny annex involving alterations to front elevation”

The reasons for refusal of planning permission were that:

1. The outbuilding’s size and separation from the main dwelling, as well as its independent access and internal layout is considered capable of independent occupation. The outbuilding would be viewed as a separate dwelling, which would not be accepted due to requirements for parking and amenity space. Overall it would be an overdevelopment of the site, which is out of character with the spacious layout of the area. Reference is made to the following policies:
 - a. AM14, BE19, BE21, BE23 and BE24 of the Hillingdon Local Plan: Part Two – Saved UDP Policies (November 2012); and
 - b. Supplementary Planning Documents HDAS: Residential Extensions and HDAS: Residential Layouts.

Appeal

We have are fully aware of the problem the Council faces in relation to other developments of granny annexes which have been independently occupied and let by the proprietor of the main dwelling to private tenants; with a view to making profit from rent. It is denied that the proposed development in this case will be used for those reasons.

The proposed development of the outbuilding is due to the fact that the proprietor’s mother, who currently lives with the proprietor’s father in a separate property, is registered disabled and requires immediate care to due her poor health. Please find enclosed, at Annex 1, a statement, made on behalf of the registered proprietor explaining the reasons for the proposed development.

Similar existing cases have already been approved by the Council, for example see application references:

- 59134/APP/2010/2706
- 10542/APP/2011/2622
- 3249/APP/2009/1581

In particular, application no: 3249/APP/2009/1581 (5 Elm Lawn Close, UB8 1NX); based on similar facts to the current case, contains an appeal decision which sets out the following factors that should be taken into account in this case:

- Although the outbuilding, in this case, is described in the officer's report as having all the facilities that would be needed to create a self-contained dwelling-house. This is not the intention of the appellant and that is not the way in which the outbuilding will be used. As set out in Annex 1, the outbuilding will be used to care for the proprietor's disabled mother.
- There is no vehicular access to the outbuilding. Further, there is very limited scope for providing a separate private amenity area for any occupier of the outbuilding due to its position within the curtilage of the main dwelling and the proximity of the main dwelling to the outbuilding.
- The use of the outbuilding is residential but that use is within an existing outbuilding unit. There is no intention to subdivide the unit and thus create a second dwelling. Accordingly, section 55(3)(a) of the TCPA 1990 would not be invoked. Use of the outbuilding as additional residential accommodation does not amount to a material change of use of the unit.
- The Council, in this case, have raised concerns that the residential use of the outbuilding could lead to issues relating to loss of privacy for neighboring properties. This same issue was raised in the 5 Elm Lawn Close case, and the appeal decision stated "*the appeal relates to whether the existing use is lawful or not. Whether it is an acceptable use of the outbuilding in planning terms is not a matter that is before me for determination.*" Therefore the same principle should apply for this current case.

Furthermore, in other cases, the outbuildings have been situated further away from the main dwelling than the current proposed development. The fact that the distance is shorter in this case shows that we do not intend for the proposed development to be independently occupied and let to a private tenant.

The proposed development falls within the test set out in section 55(2)(d) of the TCPA 1990, which states:

"the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such".

The proposed use of the outbuilding in this case would fall within this above description as it is incidental to the enjoyment of the dwellinghouse and as such is not itself a dwellinghouse. We assert that the internal layout, characteristics and features of the outbuilding are incidental to the dwellinghouse.

Summary

In summation, based on the facts provided above and those set out in Annex 1, it is clear that the proposed development is not to create a self-contained dwelling house (so as to be let to a private tenant).

It is the intention of the proprietor to provide an outbuilding unit for her disabled mother for immediate care; and the Council should not prejudice the proprietor or her mother by refusing to grant planning permission in this matter.

We ask that you fully and fairly review and address the points set out in this appeal.

Annex 1

Statement of Amrit Shinji

I, Amrit Shinji, am the registered proprietor of 15 Ross Close, Hayes, Middlesex, UB3 1TS ("**Property**"). I am making this statement to request permission to convert the outbuilding at the Property to a granny annex as my mother, Mrs Beran Shinji, requires immediate care due to her health and is registered disabled. She currently lives with my father in a separate property.

My father, Mr Surjit Shinji, is her carer but he is finding it difficult to care for her on his own. Earlier this year he was assaulted which has manifested in ongoing health problems, including problems with his back (he now has difficulty climbing stairs, as does my mother).

My mother has pain issues with her legs, feet and back, and has had a history of losing balance and falling. She also suffers from memory loss and depression. She finds it very difficult to carry out daily activities such as cleaning and cooking. Her GP has records of her poor health and such records can be provided upon reasonable request.

I have made the decision to care for both of my parents, in particular, my mother, hence the need to convert the existing outbuilding. The outbuilding will provide living/sleeping and bathroom facilities (please note that the bathroom will be a wet room as both of my parents have difficulty entering and exiting a bath tub or shower). There will be no cooking facilities as my parents will eat with me and my family in the Property.

I believe that the facts stated in this statement are true.