

PLANNING STATEMENT

Site: 75 Dawley Road, Hayes, UB3 1LX

Proposal: Retrospective application for a detached outbuilding



Introduction

This statement is submitted in support of the retrospective planning application for the retention of the detached outbuilding at 75 Dawley Road, Hayes.

This application follows correspondence from the Council's planning enforcement department inviting a planning application as a method to remedy the alleged breach of planning control identified.

Background

It is materially important to clarify the circumstances that have led to this position. As you may be aware, the outbuilding in situ has increased in size by way of an addition to the original outbuilding which had been in existence for over a four year period (and is therefore exempt from enforcement action). The applicant was motivated to carry out the extension to the previous outbuilding to meet the growing need for storage space connected to the main dwellinghouse and to allow for the incorporation of a therapeutic room which the applicant requires for an on-going physical disability. It was evident that the size of the outbuilding could not allow for this requirement. As such, the applicant began construction of an extension to the outbuilding in the summer of 2013 and it is important to note that the applicant constructed the extension in the belief that it complied with the permitted development parameters, complying with the technical limitations i.e. the extension was constructed at a height of no higher than 2.5m.

From the Applicant's perspective, this confidence was further validated when enforcement officers had made repeated visits which the applicant believes were in response to a malicious complaint made by a neighbour. During these visits the enforcement officers did not raise any issues and crucially did not request that work was halted or that the extension was removed. Yet, following correspondence from the Enforcement Department on the May 2016, it was evident that the Council believed that by virtue of the extension to the existing outbuilding, the entire outbuilding, including the section which had previously been substantially complete for over four years and which is admittedly above the 2.5m height restriction would result in the entire outbuilding being considered in excess of the height restriction, to the obvious dismay and consternation of the applicants. Furthermore, it was considered that by virtue of its size of the outbuilding would not meet the definition of incidental as it would be in excess of an arbitrary figure of 30sqm which does not taking into account many important factors, the biggest of which the is the site characteristics.

Whilst both of these points are ambiguous and open to challenge (as evidenced by planning appeals), the applicant does not wish to put his family in any further distress and has therefore opted to submit a retrospective planning application.

Planning issues

National Planning Policy Framework (NPPF) and General Permitted Development Order (GPDO)

The government have made it clear through the adoption of the NPPF and GPDO they wish to promote sustainable development and to remove bureaucratic barriers for householders and developers. In particular the permitted development legislation is a clear signal that the Government recognises that householder will need to carry out development to meet their growing needs, particularly in light of the growing housing crisis within the Country requiring householders to use their land in the most efficient and sustainable ways. The presumption in favour of sustainable development is the key overriding aim of the NPPF, and by extension local authorities are obliged to follow a similar philosophy.

The main issues in this application are:

- Whether the outbuilding can be considered 'incidental'
- Whether the outbuilding has the potential to be used for independent accommodation.
- Whether the outbuilding would impact on the character of the area
- Whether the outbuilding would result in a material reduction in amenity space
- Whether the outbuilding would negatively impact on the amenities of the neighbouring dwellings.

Incidental / amenity space

National planning policy has intentionally left the meaning of incidental undefined. The reason for this is that each such case should be assessed on its own merits, taking into account relevant factors such as use of outbuilding and size of the site. It is also important to note that neither national planning policy nor appeal decisions have given specific physical dimensions for outbuildings. Whilst the use of physical size guidelines may be useful at local level, the use of specific physical parameters to define the acceptable size of outbuilding is rather arbitrary and does not meet the necessary tests for 'reasonableness'.

Whilst it is noted that the outbuilding would comply with the criteria as set out in the GPDO and would not exceed more than 50% of land within the curtilage of the site, it is acknowledged that this that this is not the only consideration that needs to be taken into account. The outbuilding is sizeable in floor area, its physical appearance by way of materials, height and position ensure it appears subordinate to the main dwellinghouse and plays a secondary role in the context of the site. Furthermore, in *Emin v SSE* [1989] JPL 909 the High Court accepted that it would be wrong to consider that the proposed buildings could not reasonably be said to be required for a use reasonably required for the enjoyment of the dwellinghouse simply because it would provide more

accommodation for secondary activities than the house provided for primary activities; that was not part of the test as to which buildings fell within this class.

As shown in the below images the site benefits from a large, commodious garden area which would not be reduced significantly by reason of this development. The dominant characteristic of the garden is the large amount of open amenity space used by the applicants for incidental purposes. The outbuilding is located in a discreet position at the rear of the unusually long garden area. The largest section of the outbuilding is 2.5m high and constructed with a wooden facia. This ensures the outbuilding appears subordinate and congruous to the character of the dwelling and to that of the site.

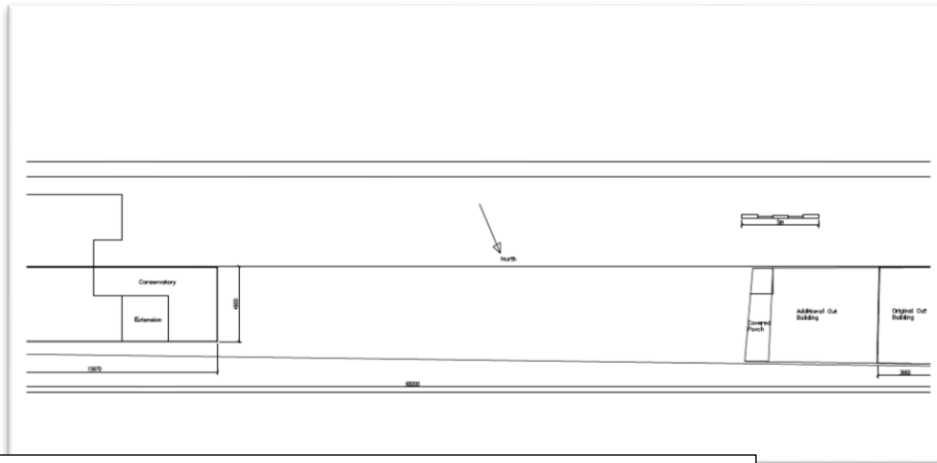


Figure 1: block plan showing site characteristics comprising large garden area.



Figure 2: photograph showing large area of open space retained post-development

As can be seen the outbuilding does not result in an unacceptable loss of garden space, the area of land within the site remaining free from buildings would not decrease significantly and adequate garden space would remain to serve the existing dwelling. Indeed the client contends that the outbuilding makes a more efficient and sustainable use of space.

The outbuilding is used for incidental purposes and its main functions are to serve as a therapeutic room and storage area to accommodate for the needs, as reasonably required by the occupants of dwellinghouse. The site comprises of a large semi-detached dwelling providing habitable accommodation for an extensive, multi-generational family. The outbuilding size is commensurate to the needs of the family which reside in the dwelling. The outbuilding provides much-needed storage space to store large householder items and provide an area to store children toys. Alongside this, the outbuilding provides a sauna and associated dressing and toilet facility. The sauna room is used by the applicant's elderly father, which amongst other benefits, relieves the bodily pains resulting from a long - term physical disability. Whilst this health facility has resulted in considerable financial expense to the family, it has proved tremendously beneficial to the occupants of the dwelling. Appeal decisions have shown leisure facilities satisfy the definition of 'incidental' to the enjoyment of the dwellinghouse ([1987] JPL 733).

Independent accommodation

Moving now to the potential for the outbuilding to be used for independent accommodation purposes. Whilst it is accepted that the size of the outbuilding is significant and the size itself could potentially allow for independent accommodation, it is evident that in this case that potential could never be realised. Firstly, the outbuilding has been developed with a single-skin wooden exterior which would be most uncomfortable during the winter allowing the forces of nature to penetrate the surface of the building. This would make the outbuilding completely inhospitable for 10 months of the year. Secondly, as stated previously the outbuilding has been designed to allow for the applicant's father to enjoy the health benefits of a sauna room. Not only has the applicant spent in excess of £20,000 for the Sauna, the room itself and its ancillary infrastructure occupies most of the area within the outbuilding. Given these reasons it be appear reasonable to any objective individual that firstly the outbuilding does not physical potential to allow for it to be used for independent accommodation purposes and secondly that the uses of the outbuilding would be unfavourable to any potential conversion into habitable rooms.

Character of the area/impact on neighbouring amenities

The outbuilding would have no impact on the character of the area as it would not be visible from any public vantage points. Its height and positioning would ensure it remains sympathetic and in keeping with the character of the dwelling and the site.

Most of outbuilding is at a height no higher than 2.5m. It is positioned at the rear most section of the site. It would not appear obtrusive or over-dominant; it would not affect the amount of light levels received at neighbouring sites and not impact on the outlook of any habitable rooms.

Related planning appeal decisions and planning decisions supporting this application:

- APP/R5510/X/13/2206, 7 Marlborough Road, Hillingdon, UB10 0PR

Despite the outbuilding having a similar footprint to the dwelling, the inspector allowed the appeal on the basis that “it does not automatically follow that the outbuilding’s size would ensure it would be capable of providing self-contained accommodation” and that did not provide sufficient reasons to argue it would be used for primary habitable accommodation.

- APP/R5510/X/12/2178752, 10 Station Road, Uxbridge, UB8 3AA

Inspector considers the site characteristics when deciding on the definition on incidental. Concludes that the outbuilding is appropriate given the size of the rear garden and importantly considers the use of leisure purposes to be considered incidental. The inclusion of a toilet would be connected to the leisure use of the outbuilding.

- 15398/APP/2016/87, 101 Wentworth Crescent, Hayes

Despite its considerable size the Council considered that the given the large rear garden that the omission of any habitable spaces, that the outbuilding would meet the definition of incidental.

Summary

It is considered that the report has provided objective planning reasons to justify the reasons that this application should be approved. It is quite apparent to any impartial, objective observer that the outbuilding is an incidental building reasonably required for purposes incidental to the enjoyment of the dwellinghouse. I therefore respectfully request that the Council grant planning permission.