



Appeal Decision

Site visit made on 17 September 2024 by J Reed MPlan

Decision by Martin Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2025

Appeal Ref: APP/R5510/D/24/3339039

10 Doghurst Avenue, Harlington, Hayes, UB3 5BJ

- 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 Mr Zeeshan Umer against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref is 58207/APP/2023/3460.
 - The development proposed is change of use for an existing rear garden annex to allow the use from a prayer room to a habitable space.
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Decision

1. The appeal is allowed, and planning permission is granted for change of use for an existing rear garden annex to allow the use from a prayer room to a habitable space at 10 Doghurst Avenue, Hayes, UB3 5BJ in accordance with the terms of the application, Ref 58207/APP/2023/3460, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin no later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos: 883 01, 883 02 and 883 03.
 - 3) The building hereby permitted shall not be used or occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 10 Doghurst Avenue, UB3 5BJ.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issues are:
 - Whether the proposal would constitute a separate unit of residential accommodation; and,
 - The future occupier's personal circumstances and need for the proposed development.

Reasons for the Recommendation

The occupation of the residential accommodation

4. No.10 Doghurst Avenue (No. 10) comprises one half of a pair of two-storey semi-detached dwellings located on a residential street. An existing single storey outbuilding that was granted planning permission to be used as a prayer space is currently being used for ancillary residential accommodation in connection with No.10 located to the rear of the dwelling and is accessed either through the house or via a path to the side of No.10. The Council has indicated that they are investigating the use of the existing outbuilding as an independent residential unit through their enforcement powers.
5. The proposed plans indicate that the accommodation would have a separate entrance door and comprise a bedroom, bathroom, living room space and cupboards for storage in an 'open plan' format. The intended occupier of the annex, a relative of the appellant, would be reliant on the main dwelling for the use of cooking facilities.
6. I note the Council's assessment that the existing residential accommodation incorporated kitchen facilities. However, the proposed floorplan indicates that no such provision is to be made in the development moving forward. Nevertheless, due to the nature of the accommodation to be provided the Council has concluded that the proposal would be capable of occupation as a new dwelling and have assessed it on this basis. They state that it would conflict with Policy DMHD 2 iii) and Appendix A of the London Borough of Hillingdon Local Plan Part 2 Development Management Policies Adopted Version 16 January 2020 (the Local Plan) which advises against annexes having a separate entrance, while they must be connected internally to the existing property.
7. The appellant has made it clear that the proposal is for an annex that would be used ancillary to the main dwelling and would not be occupied as an independent dwelling. The evidence clearly sets out that future occupiers would be reliant on the main dwelling for cooking facilities as these facilities are not proposed within the annex, and whilst I acknowledge that cooking facilities have existed previously, there is no compelling evidence presented to the contrary to suggest that these would be retained or re-provided within the proposed layout.
8. I recognise that allowing the appeal could result in pressure for the building to be used as a separate dwelling at some point in the future. However, this would require planning permission in its own right, and I am satisfied that a condition could be implemented to ensure that the occupation of the unit would remain ancillary to the occupation of the main dwelling, thus securing appropriate occupation of the unit in the future.
9. The proposed development would be contrary to some of the detailed technical aspects of Local Plan Policies DMHD 1 and DMHD 2 of the Local Plan in relation to the provision of primary accommodation and the possession of a separate entrance. However, on the basis of the information supplied, the proposal would not constitute a separate dwelling and can be secured by condition in such a manner as to ensure future occupation accords with this intent.

Personal circumstances

10. In determining this appeal, I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Disability is a relevant protected characteristic to which the PSED applies.
11. Supporting information has been provided outlining that there is a family member with additional medical needs. Details of the familial circumstances have been provided which have led to the need for additional accommodation. The appellant has provided a letter confirming the various aspects of the medical issues pertinent to the case from the local NHS Trust.
12. I have carefully considered the submissions in respect of the specific needs of the appellant's family, and I recognise the importance that the development and the increased floorspace plays in meeting these needs. Furthermore, it is difficult to visualise how these needs might be addressed satisfactorily at the appeal site without presenting a significant compromise in the living arrangements of the family to the detriment of the individual, or without resulting in more significant impacts from an alternative quantum or form of development.
13. Whilst my conclusions in respect of the main issue in any event weigh in support of the proposed development, I nevertheless attach significant weight to the need to address the specific circumstances as presented in this instance in accordance with the PSED, and which must therefore weigh in further support of the development.

Other Matters

14. The Council has expressed concerns over the potential impact of overlooking from windows into the garden of No.10 Doghurst Avenue, as well as noise and general disturbance from an 'unfettered' use of the accommodation. However, whilst these might be matters to assess were the building to be occupied as an independent unit, for the reasons set out in the main issues the occupation will be ancillary to that of the main dwelling. A similar conclusion is also reached in respect of the provision of private amenity space.

Conditions

15. I have considered the Council's suggested conditions in light of the advice of the Framework and Planning Practice Guidance. In addition to time limit and approved plans conditions, both of which are necessary and reasonable in the interests of certainty and good planning, an occupancy condition as suggested by the appellant to ensure occupation and use as ancillary to that of No.10 is also necessary in order to ensure it is occupied and used as proposed.

Conclusion and Recommendation

16. Despite the conflict with elements of DMHD 1 and DMHD 2 of the Local Plan, the specific circumstances of the proposed development would not amount to a separate dwelling for the reasons set out above. Furthermore, I am satisfied that the impact of dismissing the appeal would have a disproportionate impact on the individual with a protected characteristic in this instance. Consequently,

the needs highlighted under the PSED outweigh the limited policy harm identified.

17. For the above reasons, and subject to the conditions as listed, the appeal is allowed.

J Reed

APPEAL PLANNING OFFICER

Inspector's Decision

18. I have considered all the submitted evidence and my representative's report and on that basis the appeal is allowed.

Martin Seaton

INSPECTOR