

Appeal Decision

Site visit made on 26 February 2019

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th March 2019

Appeal Ref: APP/R5510/D/18/3212962

9b Angus Drive, Ruislip HA4 0RZ

- 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 Mrs Roshan Versi against the decision of the Council of the London Borough of Hillingdon.
 - The application, Ref. 73758/APP/2018/1493, dated 24 April 2018, was refused by notice dated 10 July 2018.
 - The development proposed is the erection of a single storey addition to the existing extension and increasing the roof to the same height as existing and use as a self-contained dwelling for occupation by the applicant.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey addition to the existing extension and increasing the roof to the same height as existing and use as self-contained accommodation for occupation ancillary to 9b Angus Drive, Ruislip in accordance with the terms of the application, Ref. 73758/APP/2018/1493, dated 24 April 2018 and as amended by this Decision subject to the following conditions:
 - 1) The development shall be carried out in accordance with the following approved plans: Drawing Nos. 06/2685 (OS based Location Plan); 17/3159/2 Rev. B (Pre-Existing Site Plan); 17/3159/2 (Existing Site Plan); 17/3159/3 Rev. B (Pre-Existing Floor Plans); 17/3159/5 (Existing Floor Plans); 17/3159/4 Rev. C (Pre-Existing Elevations); 17/3159/6 Rev. A (Existing Elevations);
 - 2) The extension hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as No. 9 Angus Drive, Ruislip.

Preliminary Matter

2. The extensions have already been constructed, with the building in use for habitable accommodation in the form of a self-contained 'granny annex'. The application is therefore for retrospective permission. The Design and Access Statement clarifies that a personal permission is sought for use as a self-contained dwelling.

Main Issues

3. The main issues are (i) the effect of the extension on the character of the host dwelling and the surrounding area, and (ii) whether the annex is tantamount to
-

a separate dwelling and its consequential impact on existing dwellings and the requirement for car parking and amenity space.

Reasons

4. On the first issue, the Council's Notice of Refusal refers to the extension being of excessive depth resulting in '*an over dominant and visually obtrusive form of development which is out of keeping with the local area and does not represent a subordinate addition*'. However, the element of operational development constituting enlargement in the appeal scheme is modest, comprising an increase in height of an existing workshop from a height of 2.49m with a flat roof to 2.75m, also with a flat roof, and an extension in length of 1m tapering to 0.2m and to its new height.
5. The Council is correct to observe that the extension as now completed and occupied and including the previously permitted extension to the flat at 9a runs the full length of the rear garden along the boundary with No. 48 The Fairway and as such is in breach of the Council's adopted Supplementary Planning Document HDAS: 'Residential Extensions' (HDAS) 2008.
6. However, from the public realm there are, at most, only glimpses of the roof of the extension above the boundary fence. And given the extension's modest height, narrow width and linear form along the boundary I consider it very unlikely that there would be any harmful impact in the outlook from the surrounding properties. The absence of any neighbour objections would appear to support this assessment.
7. Taking these points into account and noting in comparison the height and bulk of the extension to the other half of the semi-detached pair No. 7 (albeit with only a limited depth) I consider that, the technical breach of HDAS notwithstanding, the extension is neither over dominant nor visually obtrusive. The unusual length might be considered to be somewhat out of keeping, but I do not accept this is harmful to the character of the area, and this is particularly relevant to the very modest extensions made to the pre-existing workshop.
8. On the first issue I therefore conclude that the extension does not have any harmful effect on the character of the host dwelling and its surroundings. There is therefore no conflict with Policy BE1 of the Hillingdon Local Plan: Part One – Strategic Policies 2012; Policies BE13, BE15 & BE19 of the Hillingdon Local Plan: Part Two – Saved UDP Policies 2012; HDAS, and Section 12: 'Achieving Well-Designed Places' of the National Planning Policy Framework 2019.
9. Turning to the second issue, I can understand the Council's concerns because of the combination of the access independent of the host dwelling (albeit shared with the flat at 9a); the building having been given a separate identity as No. 9b, and its registration for the payment of Council tax on a separate basis from No. 9. I am also aware of the wider problem in the Borough of the unauthorised occupation of buildings in domestic curtilages. I additionally note the Council's particular concern with the extension's facilities for the preparation of meals, which ostensibly adds weight to the Council's objection.
10. However, on the latter point whilst this facility would aid a future independent occupation as a separate dwelling, there is ample Case Law that indicates cooking facilities can also properly form part of the arrangements for a granny

annex. The issue of whether a building is tantamount to a separate dwelling is not dependent on this - rather it is a question of fact and degree having regard to all the circumstances in any particular case.

11. In this instance, there are two carers for the appellant who are able to arrive to attend to her needs via the separate access when the family are not in residence at No. 9 and I consider it both reasonable and necessary for meal preparation to be independent of the host dwelling. As for the more general need for a granny annex, there is detailed and compelling medical and social care evidence in this case that in my judgement amounts to a clear justification for a grant of permission. This includes a letter from the appellant's doctor who is of the opinion that it would be detrimental to the health of the appellant for her to be moved to a nursing home or any other form of accommodation and leave her family.
12. Furthermore, from my inspection of the annex I am satisfied that the floorspace and facilities it provides are no more than the minimum needed to meet the reasonable requirements of the 'care and support plan' prepared by the Council's social services department.
13. However, in order to avoid longer term problems that the Council have alluded to in the second reason for refusal and summarised as the second issue in paragraph 3 above, it is necessary to formally approve the extension on the basis of not being occupied at any time other than for purposes ancillary to the residential use of the host dwelling. I shall therefore impose a condition similar to that suggested in the Council's appeal questionnaire.
14. On this issue I conclude that in the circumstances of this case and with the condition stipulating ancillary use, the annex is not tantamount to forming a separate dwelling and there is therefore no adverse impact as regards a requirement for car parking and amenity space or any other matter. Accordingly there is no conflict with Policies AM14, BE19, BE21, BE23 & BE24 of the Hillingdon Local Plan: Part Two – Saved UDP Policies 2012 and HDAS.
15. As I have found in the appellant's favour in respect of both main issues, I shall allow the appeal. Although the annex already exists and is in use, a compliance with plans condition is necessary to place on record the approved details so as to avoid any future uncertainty. As indicated a condition stipulating the annex is confined to ancillary use to the main dwelling will ensure that independent occupation does not take place or become lawfully established.
16. The application is for a 'self-contained dwelling', whilst the Design and Access Statement explains that a personal permission is being sought. However, the officer's report explains the disadvantages of both these aspects and because of the implications when the building is no longer needed on a personal basis for the appellant I consider that to avoid the dismissal of the appeal it is necessary for me to alter the term 'dwelling' to 'accommodation' and delete the reference to occupation by the applicant. Without this amendment, condition no. 2) would not make any sense and in the absence of its imposition I consider the appeal would have to be dismissed.
17. For the avoidance of doubt this is neither a temporary nor a personal permission but a consent that runs with No.9 in perpetuity unless changed by a future permission. When the accommodation is no longer required for the

appellant the facilities can be retained for usage ancillary to No. 9, and at that time or indeed before, the appellant's family might wish to obtain expert advice as to the constraints that are imposed through the relevant planning legislation and guidance and its subsequent interpretation through the Courts. In the even longer term if No.9 were to change hands the facility of a granny annex would remain or indeed any other ancillary use.

18. In the light of my decision to allow the appeal in the short term it will be necessary for the appellants to remove any physical or documentary indication that the extension has an individual identity as No. 9b Angus Drive, including its de-registration for Council tax, although it may well be that the host dwelling should be contemporaneously re-assessed for that purpose because of the development. These are not matters that can be lawfully addressed by a condition but they are nonetheless necessary if the use of the extension as a granny annex is to remain within the scope of the permission granted by my allowing the appeal.

Martin Andrews

INSPECTOR