The Planning Inspectorate

Appeal Decision

Site visit made on 6 July 2021

by Caroline Mulloy BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th August 2021

Appeal Ref: APP/R5510/D/21/3272937
37 Frays Waye, Uxbridge UB8 2QU

- 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 Mr John O'Reilly against the decision of the Council of the London Borough of Hillingdon.
- The application Ref 75562/APP/2021/202, dated 18 January 2021, was refused by notice dated 15 March 2021.
- The development proposed is single storey outbuilding to rear garden.

Decision

1. The appeal is allowed and planning permission is granted for a single storey outbuilding to rear garden at 37 Frays Waye, Uxbridge UB8 2QU in accordance with the terms of the application, Ref 75562/APP/2021/202, dated 18 January 2021, and the plans submitted with it, subject to the following conditions:

    1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

    2) The development hereby permitted shall be carried out in accordance with the following approved plans: location and block plans S-01a; existing site plan S-02; proposed site plan 262/PD0-01 Rev A; proposed plans and elevations 262/PD0-02 Rev A.

    3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

    4) The building hereby permitted shall not be occupied until the measures set out in the Flood Risk Assessment dated January 2021 shall have been completed in accordance with the submitted details. The measures shall be maintained thereafter in accordance with the approved details.

    5) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 37 Frays Waye, Uxbridge UB8 2QU.

Background

2. A Certificate of Lawful Development (CLD) was granted for a single storey outbuilding to rear for use as a garage/home office on 23 June 2020. The building approved under the CLD would be the same height, width, depth and overall appearance as the outbuilding subject to this appeal. The CLD proposal

indicated that half the building would be used as a garage and the other half as an office.

Main Issues

3. The main issue in this case is the effect of the proposal on the character and appearance of the host property and the surrounding area.

Reasons

4. The appeal property is a two storey, mid-terrace dwelling which has a single storey extension to the rear. The property has a large rear garden backing onto a private access road. A large storage container was situated at the end of the garden at the time of my site visit.

5. Policy DMHD 2 of the Council's Local Plan Part 2 – Development Management Policies 2020 (LPP2 DMP) requires residential outbuildings to meet a number of criteria in order to safeguard the character and appearance of the area and the amenity of local residents.

6. The single storey outbuilding would have a footprint of around 38m^2 and a height of around 2.5m. Whilst the proposal would be slightly larger than the 30m^2 stated as guidance at paragraph A1.34 of the supporting text to Policy DMHD 2 it would, nevertheless, be proportionate to the footprint of the host property and it would leave ample garden space for existing occupiers. Furthermore, it would have a similar size to other outbuildings which have been erected in the area. The proposal would be constructed of yellow stock brick to match the first storey of the host dwelling and although it would have a flat roof, this would be consistent with other outbuildings.

7. Moreover, the proposal would be the same height, width, depth and overall appearance as the CLD proposal and would, therefore, have a similar effect on the character and appearance of the area. Whilst I acknowledge that the CLD serves a different purpose, the presence of the CLD is, nevertheless, a material consideration in this case. Having sought permission for the CLD, I consider that there is a greater than theoretical possibility that the appellant would implement it in the event that this appeal failed. I, therefore, attach moderate weight to this fall-back position in my decision.

8. Overall, I consider that the proposal would be of a similar size, design and appearance to other outbuildings which have been erected in the area. The proposal would not, therefore, harm the character and appearance of the area and would comply with criteria i, and ii of Policy DMHD 2 in this regard.

9. Criterion iii of Policy DMHD 2 requires the use of an outbuilding to be for a purpose incidental to the enjoyment of the dwelling house and not capable for use as independent residential accommodation or contain primary living accommodation such as a bedroom, bathroom or kitchen. It seeks to avoid proposals for detached outbuildings which effectively constitute a separate dwelling in a position where a dwelling would not be acceptable.

10. In contrast to the CLD which proposed an office and a garage, the appeal proposal would contain a home office, a studio for children, with a sofa bed for occasional sleeping for guests/occupants and a bathroom.

11. I am satisfied that the office and use of the studio by children would be ancillary to the main house. Although the studio would have a sofa bed this would only be for occasional sleeping for guests. The proposed outbuilding would have a shower room but not a kitchen and so any occupants would need to share the kitchen facilities. As such, there would be a degree of interaction between the outbuilding and the host dwelling which would reinforce the ancillary nature of the building's use.

12. Furthermore, the proposed outbuilding would have a solid back wall and so access to the building would only be possible via the rear garden. This combined with the limited size would render the occupation of the outbuilding as a separate dwelling very unlikely. Whilst a bathroom would be provided which would be in conflict with criterion iv of Policy DMHD 2, for the reasons given above and in the particular circumstances of this case, the use of the proposal would be ancillary to the main house and not create a separate dwelling and it would, therefore, meet criterion iii) of Policy DMHD 2. The proposal would not, therefore, contravene the overall objective of the Policy to avoid the creation of an independent dwelling.

13. Whilst the Council is concerned that the proposal would be capable of occupation as an independent dwelling in the future, that is not the nature of the proposal before me. Were the outbuilding not built or utilised as proposed, or if there is a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required and the building would be at risk of enforcement action.

14. A condition requiring that the outbuilding should not be occupied independently of the dwelling house is necessary and enforceable in case the building were to be physically altered to allow for independent access from the private road to the rear which could result in the creation of a separate planning unit. With such a condition, I consider that the proposal would not result in the creation of a separate dwelling in the future.

15. The outbuilding would be situated at a sufficient distance from the main house and the rear elevations of the neighbouring properties and there are no side facing windows which would result in the loss of privacy. Furthermore, the frequency of movements would be unlikely to go beyond that expected from the use of an ancillary summerhouse. Consequently, there would be no implications in terms of the effect on the living conditions of the occupiers of the host and neighbouring properties. As the outbuilding would not be occupied as an independent dwelling any potential impacts of such a use on adjoining occupiers would not occur.

16. In conclusion, the proposal would not have a harmful effect on the character and appearance of the host property and the surrounding area. As such, I find no material conflict with Policy DMHD 2 of the LPP2 DMP. Conflict would also not arise with Policies DMHD 1, DMHB 11, DMHB 18 and DMT 6 of the LPP2 DMP or Policy BE1 of the Council's Part 1 – Strategic Policies Local Plan (2012) which collectively seek to ensure high quality design which reflects the character and appearance of the area, ensure the provision of good quality private outdoor amenity space and vehicle parking.

17. In addition to the standard time limit, I have imposed a condition requiring that the proposal is built in accordance with the approved plans in the interests of

certainty. A condition requiring that the materials match those of the existing building is necessary in the interests of character and appearance.

18. The appeal proposal would be situated within Flood Zone 2 and a Flood Risk Assessment (January 2021) has been submitted. A condition requiring that the measures set out in the Flood Risk Assessment are completed prior to occupation is necessary to ensure that the building is safe from potential flooding given the potential for occasional overnight occupation. Finally, for the reasons discussed above a condition requiring that the building should not be occupied at any time other than for purposes ancillary to the residential use of the dwelling is necessary.

Conclusion

19. For the reasons set above and having had regard to all other matters raised, the appeal should succeed.

Caroline Mulloy

Inspector