

Location **95A Hodford Road London NW11 8EH**

Reference: **15/02046/HSE** Received: 27th March 2015
Accepted: 22nd April 2015

Ward: Childs Hill Expiry 17th June 2015

Applicant: Mr Fonan Tang

Proposal: Retention of existing outbuilding following partial demolition

Recommendation: Approve subject to conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Plan - Existing (received 27/03/2015)

Roofplan - Existing

Roofplan - Proposed

Floor Plan - Existing

Floor Plan - Proposed

Existing elevations (East and West)

Existing elevations (South and North)

Proposed elevations (East and West)

Proposed elevations (South and North)

Supporting document explaining ancillary use from applicant

[All as amended]

(All received 16/06/2015)

Floor Plans - Existing including floor plans of ground floor flat

Floor Plans - Proposed including floor plans of ground floor flat

Email from applicant dated 28/09 confirming fence to be replaced at ground floor flat with a fence and gate for access

(Received 05/10/2015)

Reason: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).

- 2 The outbuilding shall be demolished and all materials resulting from the demolition shall be removed within three months of the date of failure to meet requirement (i) below:

(i) within three months of the date of this decision, the outbuilding shall be part demolished and amended and the alterations made to the garden fencing so as to be implemented as hereby approved and shall be permanently retained as such thereafter.

Reason:

To safeguard the character and appearance of the host dwelling and general area in accordance with policy DM01 of the Adopted Barnet Development Management Policies DPD (2012).

- 3 The use of the outbuilding hereby permitted shall at all times be ancillary to and occupied in conjunction with the Ground Floor Flat, known as Flat 95A Hodford Road and shall not at any time be occupied as a separate unit or dwelling.

Reason: To ensure that the development does not prejudice the character of the locality and the amenities of occupiers of adjoining residential properties in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012).

- 4 Notwithstanding the provisions of any development order made under Section 59 of the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order) no windows or doors, other than those expressly authorised by this permission, shall be placed at any time in the rear and side elevation(s) facing 1 The Ridgeway, 93 Hodford Road and 97 Hodford Road.

Reason: To safeguard the privacy and amenities of occupiers of adjoining residential properties in accordance with policy DM01 of the Development Management Policies DPD (adopted September 2012).

Informative(s):

- 1 In accordance with paragraphs 186 and 187 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.

- 2 This decision has been determined on the basis of the approved lawful use of the main dwelling as 2 self-contained units, approved under ref:F/03451/11

- 3 If the outbuilding is not reduced in size in accordance with the approved plans within 3 months of this decision then a planning enforcement notice will be served on the applicant.

Officer's Assessment

1. Site Description

The application site is located on the western side of Hodford Road located in the ward of Childs Hill.

The site is not a listed building and is not within a conservation area.

Planning permission has previously been granted for the conversion of the property into two self-contained units, under application reference F/03451/11.

2. Site History

Reference: ENF/00938/11/F

Address: 95 Hodford Road, London, NW11 8EH

Enforcement breach description: Construction of a single storey dwelling in the rear garden

Appeal reference: APP/N5090/C/12/2186111

Appeal Decision: Dismissed

Appeal Decision Date: 16 May 2013

Reference: F/02149/12

Address: 95 Hodford Road, London, NW11 8EH

Decision: Refused

Decision Date: 14 November 2012

Description: Retention of conversion of first and second floors into three self-contained flats.

Reference: F/03451/11

Address: 95 Hodford Road, London, NW11 8EH

Decision: Approved subject to conditions

Decision Date: 3 November 2011

Description: Conversion of property into 2no self-contained units.

Reference: F/00901/11

Address: 95 Hodford Road, London, NW11 8EH

Decision: Approved subject to conditions

Decision Date: 28 April 2011

Description: Part single, part two storey side extension.

Reference: F/05008/10

Address: 95 Hodford Road, London, NW11 8EH

Decision: Lawful

Decision Date: 27 January 2011

Description: Single storey rear extension. Roof extension including two side dormer windows to the rear projection.

3. Proposal

The application relates to the retention and partial demolition of an existing outbuilding.

The existing outbuilding is 8.5 metres in width, 10.4 metres in depth and 2.4 metres in eaves height with a flat roof.

The proposed outbuilding would be 8.5 metres in width, 3.8 metres deep on the boundary of 97 Hodford Road and 4.8 metres deep on the boundary of 93 Hodford Road, and 2.4 metres in eaves height with a flat roof.

The applicant has confirmed that the proposed outbuilding would be used for ancillary purposes by the occupiers of the Ground Floor Flat, known as Flat 95A, 95 Hodford Road. The address for the application has been amended accordingly.

The outbuilding will include a gym, hobby and yoga room and shower room.

4. Public Consultation

Consultation letters were sent to 10 neighbouring properties.

7 responses (and/or signatures) have been received, comprising 7 letters of objection, including one request to speak at planning committee.

The objections received can be summarised as follows:

- The proposed outbuilding has a detrimental impact to the character of the area
- The existing outbuilding has previously been used for unauthorised residential purposes. The objector has concerns that the proposed outbuilding will be used for residential purposes again.
- Uncertainty of the size of the proposed outbuilding
- There was a previous enforcement decision to demolish the existing outbuilding.
- The property has been overdeveloped (through the subdivision of flats) and does not have the space or facilities to accommodate the volume of people. - In addition the objector is concerned with the anti-social behaviour of residents in flats.
- Green space to front and rear has been removed
- The proposal is not policy compliant
- Proposed use(s) are not a subservient use(s).
- Not sufficient amenity space for occupiers of the main property
- No other outbuilding nearby as large as what is being proposed
- Proposed materials are not in keeping
- The construction of the outbuilding will be built right up to building line.

5. Planning Considerations

5.1 Policy Context

National Planning Policy Framework and National Planning Practice Guidance

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The National Planning Policy Framework (NPPF) was published on 27 March 2012. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that 'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

The Mayor's London Plan 2015

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2050. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5.
- Relevant Development Management Policies: DM01, DM02.

The Council's approach to extensions as set out in Policy DM01 is to minimise their impact on the local environment and to ensure that occupiers of new developments as well as neighbouring occupiers enjoy a high standard of amenity. Policy DM01 states that all development should represent high quality design and should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers. Policy DM02 states that where appropriate, development will be expected to demonstrate compliance to minimum amenity standards and make a positive contribution to the Borough. The development standards set out in Policy DM02 are regarded as key for Barnet to deliver the highest standards of urban design.

Supplementary Planning Documents

Residential Design Guidance SPD (adopted April 2013)

- Sets out information for applicants to help them design an extension to their property which would receive favourable consideration by the Local Planning Authority and was the subject of separate public consultation. The SPD states that large areas of Barnet are characterised by relatively low density suburban housing with an attractive mixture of terrace, semi detached and detached houses. The Council is committed to protecting, and where possible enhancing the character of the borough's residential areas and retaining an attractive street scene.
- States that extensions should normally be subordinate to the original house, respect the original building and should not be overly dominant. Extensions should normally be consistent in regard to the form, scale and architectural style of the original building which can be achieved through respecting the proportions of the existing house and using an appropriate roof form.
- In respect of amenity, states that extensions should not be overbearing or unduly obtrusive and care should be taken to ensure that they do not result in harmful loss of outlook, appear overbearing, or cause an increased sense of enclosure to adjoining properties. They should not reduce light to neighbouring windows to habitable rooms or cause significant overshadowing, and should not look out of place, overbearing or intrusive when viewed from surrounding areas.

Sustainable Design and Construction SPD (adopted April 2013)

- Provides detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet.

5.2 Main issues for consideration

The application was deferred at Finchley and Golders Green Area Planning Committee on the 27th July 2015 to enable officers to obtain further information of how all existing and future occupiers will access the rear garden and outbuilding.

The applicant has confirmed in writing that 95 Hodford Road has 2 flats; the rear garden is a communal garden for both flats; and that both flats have access to the rear garden. Drawings have also been amended to show a new gate and fence at the ground floor flat to ensure occupants have direct access to the garden and outbuilding.

The main issues for consideration in this case are:

- Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality;
- Whether harm would be caused to the living conditions of neighbouring residents.

5.3 Assessment of proposals

Any test for whether a use is ancillary to another or not is a matter of fact and degree and each case has to be determined on its particular merits.

In this instance there are three important points to consider:

Firstly, could the proposed outbuilding practically and viably operate on its own were the primary use of the premises to cease? In this instance the building is closely linked to the main dwelling and subservient in terms of size and scale. It has been noted that the outbuilding does not have a kitchen and therefore is reliant on cooking facilities within the main dwelling. The proposed uses are considered ancillary to the enjoyment of the main dwelling.

Secondly, how would the physical dimensions and design of the building affect the character of the surrounding area? Following negotiations with the applicant, it is considered that the amended proposal will improve the existing outbuilding's impact on character of the locality by virtue of its reduction in size and scale (representing over 50% reduction in depth). The proposed outbuilding will be built in brick, matching the host property and surrounding area.

Thirdly, would the outbuilding and its use, impact the amenity of neighbouring occupiers to an unacceptable level? By nature of the proposed uses, it is not considered the outbuilding would cause an unacceptable level of noise and disturbance to neighbouring occupiers. No windows are proposed in the side elevations facing 93 Hodford Road or 97 Hodford Road and therefore no overlooking will occur. By virtue of its height and roof form, it is considered the outbuilding will not cause unduly overshadowing or poor outlook to neighbouring properties. Moreover, the two closest adjacent windows at 1 The Ridgeway, to the rear of the outbuilding, do not appear to serve habitual rooms.

Bearing the above points in mind, the proposal is considered acceptable in regards to use, impact on character and impact on amenity of neighbouring occupiers. It is deemed the proposed outbuilding is in accordance with the adopted Core Strategy (2012),

Development Management Document (2012) and the Residential Design Guidance SPD (2013).

Other material consideration:

Officers are satisfied that sufficient outdoor amenity space is retained to meet the requirements set out in Barnet's Sustainable Design and Construction SPD, for the occupiers of the lawful 2 self-contained units in the main property. Paragraph 17 of the Appeal decision states "The uncontested evidence is that the main property includes eleven habitable rooms...". Therefore 55sqm of amenity space needs to be provided. The proposed outbuilding would provide approximately 105 sqm and therefore meets the Councils' requirements.

It is noted that a previous appeal was dismissed for the construction of a single storey dwelling in the rear garden (i.e. the subject outbuilding) (under ref: APP/N5090/C/12/2186111, dated 16 May 2013).

The appeal decision was based on the outbuilding being used as an unlawful residential dwelling. The Inspector's decision had no regard for the size or physical dimensions of the outbuilding.

The main issues of the appeal were:

- The impact of the dwelling upon the character and appearance of the locality
- The effect of the development upon the living conditions of existing and future occupiers, having particular regard to the standards of living
- Whether the design of the dwelling meets with local and national planning policies that seek to achieve sustainable development and homes for life
- The impact of the development upon provision of education, library and health facilities in the locality

The outbuilding has ceased use as a residential dwelling. This application is seeking permission for the building used ancillary to the main property. As such the latter three issues are not relevant to the assessment of this application.

In regards to character the Inspector concluded in Paragraph 12 of the appeal decision that "In this particular locality, dwellings in the rear garden are not common features. The dwelling is out-of-keeping with the suburban quality of the street scene because of the dwelling's rearward positioning. It is visually out of keeping with the character and appearance of the host property and that of the area. The dwelling's location is unacceptable because it amounts to inappropriate residential development of a garden. This is further exacerbated by the creation of two separate private amenity spaces."

This current application is not proposed for residential use and has been reduced significantly in size and scale compared to the appeal application.

It is important to note that Paragraph 6 of the appeal decision stated "The outbuilding is separately accessed due to its disconnection from the main dwelling. The rear garden to the property has been subdivided by a fence and a large section seems to form a separate curtilage to the outbuilding. The outbuilding is a self-contained dwelling because there is no physical or functional relationship with the host property"

Notwithstanding it is no longer used as a self-contained dwelling, the applicant has advised that the rear garden is a communal garden for both flats and that both flats have access to the rear garden. The applicant has confirmed in writing that they will remove the ground floor flat's subdivided fence and replace it with a new fence and gate with direct access to the garden and proposed outbuilding. Existing and proposed drawings have been provided to reflect this.

It is considered these changes would sufficiently address the Inspector's concerns whilst ensuring a degree of privacy for occupiers of the ground floor flat.

As such the proposal is considered materially different from the appeal decision and would comply with the relevant policies and guidance on its own merits.

5.4 Response to Public Consultation

- The proposed outbuilding has a detrimental impact to the character of the area

It has been considered, that on receipt of amended plans and a reduction in size, on balance, the outbuilding will not harm the character of the area to an unacceptable level.

- The existing outbuilding has previously been used for unauthorised residential purposes. The objector has concerns that the proposed outbuilding will be used for residential purposes again.

This application has to be determined on the evidence provided by the applicant. The application is being determined on the basis that the use(s) are ancillary to the main dwelling. This can be secured by a condition in the event of an approval.

- Uncertainty of the size proposed

The proposed outbuilding would be 8.5 metres in width, 3.8 metres deep on the boundary of 97 Hodford Road and 4.8 metres deep on the boundary of 93 Hodford Road, and 2.4 metres in eaves height with a flat roof, upon receipt of amended plans (received 16/06/2015).

- There was a previous enforcement decision to demolish the existing outbuilding

The Inspector's decision (ref: APP/N5090/C/12/2186111) was based on the existing outbuilding being used a residential dwelling. This application seeks the retention of the outbuilding for use(s) ancillary to the main dwelling.

- The property has been overdeveloped (through the subdivision of flats) and does not have the space or facilities to accommodate the volume of people. In addition the objector is concerned with the anti-social behaviour of residents in flats.

The subdivision of the property into 2 self-contained flats has previously been considered and approved under application reference: F/03451/11. The assessment of this application has no relation to concerns regarding subdivision.

- Green space to front and rear has been removed

In this instance, it is considered unreasonable for the Council to request that the applicant reinstate landscaping in the rear garden or apply a condition requesting as such, on the basis that green space has already been lost.

- The proposal is not policy compliant

As per the above assessment, the proposal is considered acceptable in accordance with CS1 and CS5 of the adopted Core Strategy (2012), DM01 of Development Management Document (2012) and Paragraph 14.40 and Paragraph 14.41 of the Residential Design Guidance SPD (2013).

- Proposed use(s) are not a subservient use(s).

It is considered in this instance the proposed uses are ancillary to the enjoyment of the main dwelling. Please note the original submission stated use as an Office/Study, which is considered an ancillary use. This has been amended in revisions.

- Not sufficient amenity space for occupiers of the main property

The Officer is satisfied upon amended drawings that sufficient remaining outdoor amenity space exists to meet the requirements set out in Barnet's Sustainable Design and Construction SPD, for the lawful 2 self-contained units in the main dwelling.

- No other outbuilding nearby is as large as what is being proposed

On receipt of reduced size and scale in amended plans, on balance, it is considered the outbuilding will not impact the character and appearance of the host property or surrounding area to an unacceptable level. Enough rear amenity space is retained to be in keeping with the character of the area.

- Proposed materials are not in keeping

The outbuilding is proposed to be built in brick and render, which will be in keeping with the host property.

- The construction of the outbuilding will be built right up to building line

The outbuilding is set off the boundaries of the neighbouring properties by 0.2 metres. When taking into consideration its proposed height, roof form and removal of windows in the side elevations, the proposed outbuilding will not impact the amenity of neighbouring occupiers to an unacceptable level.

6. Equality and Diversity Issues

The proposal does not conflict with either Barnet Council's Equalities Policy or the commitments set in the Equality Scheme and supports the Council in meeting its statutory equality responsibilities.

7. Conclusion

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposed development would have an acceptable impact on the character and appearance of the application site, the street scene and the locality. The development is not considered to have an adverse impact on

the amenities of neighbouring occupiers. This application is therefore recommended for approval.

