

Report of the Head of Planning, Sport and Green Spaces

Address 21 PARKFIELD AVENUE HILLINGDON

Development: Single storey outbuilding to rear for use as a games room involving demolition of existing garages to rear

LBH Ref Nos: 31591/APP/2016/1937

Drawing Nos: Location Plan (1:1250)
Block Plan (1:500)
01
02

Date Plans Received: 20/05/2016 **Date(s) of Amendment(s):**

Date Application Valid: 25/05/2016

1. CONSIDERATIONS

1.1 Site and Locality

The application property comprises of a two storey mid-terraced property located on the western side of Parkfield Avenue which lies within the Developed Area as identified within the Hillingdon Local Plan - Saved UDP Policies (November 2012). The property currently has two detached garages located towards the rear boundary backing onto the service lane. Both garages are in a poor state of repair. There are a number of large detached outbuildings located to the rear of properties along the service lane.

1.2 Proposed Scheme

The application seeks planning permission for the erection of a single storey outbuilding to rear for use as a games room involving demolition of existing garages to rear.

1.3 Relevant Planning History Comment on Planning History

There is no planning history of relevance to this application.

2. Advertisement and Site Notice

2.1 Advertisement Expiry Date:- Not applicable

2.2 Site Notice Expiry Date:- Not applicable

3. Comments on Public Consultations

4 neighbouring properties were consulted by letter dated 26.5.16 and a site notice was displayed to the front of the site on 1 June 2016 which expired on 27.6.16. No responses have been received.

The application is being reported to committee for consideration at the request of a local

Ward Councillor.

4. UDP / LDF Designation and London Plan

The following UDP Policies are considered relevant to the application:-

Part 1 Policies:

PT1.BE1 (2012) Built Environment

Part 2 Policies:

AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
BE13	New development must harmonise with the existing street scene.
BE15	Alterations and extensions to existing buildings
BE19	New development must improve or complement the character of the area.
BE20	Daylight and sunlight considerations.
BE21	Siting, bulk and proximity of new buildings/extensions.
BE23	Requires the provision of adequate amenity space.
BE24	Requires new development to ensure adequate levels of privacy to neighbours.
HDAS-EXT	Residential Extensions, Hillingdon Design & Access Statement, Supplementary Planning Document, adopted December 2008

5. MAIN PLANNING ISSUES

The main issues with the proposal are the impact on the street scene and amenities of the surrounding area, the design in terms of scale and proportion, and the potential impacts on the amenities of the neighbouring occupiers. Parking, amenity space provision and landscaping are also taken into account.

The Council's adopted Supplementary Planning Document (SPD) HDAS: Residential Extensions discusses detached outbuildings at section 9. The building needs to be related to normal residential activities ancillary to the main house such as storage use, a children's playroom, gym or hobby room and cannot be used for sleeping purposes or for separate cooking or bathroom facilities or self-contained accommodation. The outbuilding must also leave a practical amount of garden space for the main house. This should be 60 square metres for a 3 bedroom house.

The footprint of the proposed outbuilding is 42 square metres which exceeds the footprint of the existing outbuildings by approximately 5 square metres. The detached outbuilding would be located to the rear of the application site set back 1m from the service lane and extending adjacent to both side boundaries. Windows would face the rear elevation of the host dwelling. The outbuilding would have a maximum height of 3.7m. Given the overall size of the rear garden of the application site, the scale of the two outbuildings that it is proposed to replace and the character of the rear service lane which has a number of sizeable outbuildings along it, the proposed outbuilding would appear as an appropriate addition to the rear of the application site. As such, the outbuilding would have an

acceptable impact upon the visual amenity of the application property and the character of the surrounding area in accordance with Policies BE13, BE15 and BE19 of the Hillingdon Local Plan (November 2012).

The outbuilding would be sited approximately 19m away from adjacent residential properties. Given the degree of separation, it is considered that the outbuilding would not result in a material loss of outlook, loss of daylight, over-shadowing or over-dominance to the occupiers of the neighbouring properties. The development is therefore considered acceptable in regards to Policies BE20 and BE21 of the Hillingdon Local Plan (November 2012).

Schedule 2, Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states that a building within the curtilage of the dwellinghouse will be permitted if it is required for a purpose incidental to the enjoyment of the dwellinghouse. Similarly the SPD HDAS: Residential Extensions indicates that such buildings will only be granted permission if it is to be used for normal domestic purposes related to the residential use of the main house.

The outbuilding would be subdivided into 3 separate areas to include a bathroom, gym and games room. The provision of individual rooms and shower facilities raise concerns regarding its possible use, particularly given the scale, fittings and fenestration and ability to access the building other than through the main house. A generous toilet and shower room would be provided. A separate dwelling here would be out of character with the surrounds and risk residential amenity issues for neighbours.

Class E.4 of the GPDO stipulates that the provision within the curtilage of the dwellinghouse of any building is required for a purpose incidental to the enjoyment of the main dwellinghouse. As such the onus of proof is firmly on the applicant to demonstrate that the proposed outbuilding would be for such a purpose. The interpretation of the GPDO has arisen as a result of a number of appeal/court decisions for this type of proposal. In two appeal decisions (January 2010) relating to similar proposals, the Inspector made the following comments/observations: APP/R5510/X/09/2111737:

"In summary, the appellant's case is that the outbuilding would be ancillary to the main dwellinghouse and would constitute lawful development under the Town and Country Planning (General Permitted Development) Order 1995, as amended in 2008 (the "GPDO"). The section of the GPDO relied upon is Class E of Part 1 of Schedule 2 of the recently amended GPDO. This contention is flawed. I explain why below.

The appellant's case concentrates on the various criteria relating mainly to building dimensions and location as set out in Class E, but ignores the basic terms of Class E. Under these terms, planning permission is granted "for the provision within the curtilage of a dwellinghouse of any building or enclosure required for a purpose incidental to the enjoyment of the dwellinghouse as such". The courts have held that the word "required" here should be interpreted to mean "reasonably required". The words "as such" are also important. Thus in this type of case the applicant or appellant must show that what is proposed is reasonably required for a purpose incidental to the use of the dwellinghouse as a dwellinghouse. The onus of proof (on the balance of probability) is on the applicant or appellant.

Class E of the GPDO does not permit the erection of outbuildings for use as additional

residential accommodation of the sort which would normally be found in a house, for example as an additional bedroom or living room. It is therefore appropriate to examine the reasons for development being "required" under Class E - otherwise the GPDO would be open to abuse by sham proposals, involving buildings being constructed for one stated purpose and then being used for another purpose. The proposed building would also be quite substantial in size, having nearly the same floor area as the original ground floor area of the semi-detached house at 86 Hitherbroom Road. (The original house has evidently been extended at the side and a rear conservatory has also been added.)

The appellant has not explained why a building of the size proposed is required. The description "exercise/playroom", with oblique stroke punctuation which could be interpreted as meaning "and" or "or" (or perhaps both), is also imprecise. Quite apart from the vagueness of the claimed intended use, merely making an application for a certificate of lawfulness and stating a proposed use does not provide a case that what is proposed is or would be reasonably required.

No evidence has been put forward on which I could base a finding that the building is reasonably required for a purpose incidental to the enjoyment of the dwellinghouse at 86 Hitherbroom Road as a dwellinghouse.

I therefore find that the proposed development would not be permitted by Class E of Part 1 of Schedule 2 of the GPDO. The proposal would not be permitted under any other part of the GPDO and has not been the subject of a specific planning permission."

Again a similar reasoning was used in the following appeal APP/R5510/X/09/2110511:

"The arguments put forward on behalf of the appellant focus on the physical features of the proposal. For example, the building would not exceed the 2.5 metre overall height limit specified in paragraph E.1(d)(ii), which applies to buildings within 2 metres of the cartilage boundary, or the 2.5 metre eaves height limit specified in paragraph E.1(e). The building would not be situated "forward of any wall forming the principal elevation of the original dwellinghouse" (proviso E.1(b)).

The criterion in paragraph E.1(a) of Class E concerns whether the total area Covered by buildings other than the Original house would exceed 50% of the total area of the curtilage, excluding the ground area of the original house.

"Both sides have argued about the area of the proposed building compared with the floor area of the existing house, but the house has apparently been extended, and it is the ground area occupied by the original house which is important for the purposes of paragraph E.1(a). From the available evidence including my on-site checks, I estimate that if the proposed building were constructed, and allowing for the area taken up by non original additions to the house, the ground area covered by buildings within the curtilage would approach, but would not exceed, the 50% limit. So this criterion would be met.

However, the physical dimensions discussed above are not by themselves decisive. Of more significance is the first part of Class E (in paragraph E(a), which I have quoted in paragraph 2 above. I explain this point below.

The Courts have upheld that in the expression 'required for the purpose incidental to the use of the dwelling house as such', the word 'required' should be interpreted to mean 'reasonably required'. The words 'as such' are also potentially important. Thus in this type

of case the applicant or appellant must show that what is proposed is reasonably required for a purpose incidental to the use of a dwellinghouse as a dwellinghouse. The onus of proof (on the balance of probability) is on the applicant or appellant.

Class E of the GPDO does not permit the erection of outbuildings for use as additional residential accommodation of the sort which would normally be found in a house, for example as an additional bedroom or living room. It is therefore appropriate to examine the reasons for development being "required" under Class E, otherwise there is a possibility of the GPDO being abused by sham proposals, involving buildings being constructed for one stated purpose and then being used for another purpose. The need for critical examination particularly applies where, as in this instance, a building is proposed which would be of quite substantial scale. As is apparent from the submitted location plan and site plan, the proposed building would have an area larger than the ground floor area of most of the terraced houses in the neighbourhood. No real attempt has been made by the appellant to explain why a building of this size is required. There is simply no evidence on which I could base a finding that what is proposed is reasonably required for a purpose incidental to the enjoyment of the dwellinghouse at 81 Bourne Avenue as a dwellinghouse. I therefore find that the proposed development would not be permitted by Class E of Part 1 of Schedule 2 of the GPDO."

In relation to this proposal, the outbuilding has a footprint of 42 square metres. It is considered that it would not be of a scale commensurate to that incidental to the enjoyment of the main house and would exceed the footprint of the original dwellinghouse. Given the footprint of the proposed outbuilding, in comparison to the main dwelling, an outbuilding of this size is considered too large to be required for a purpose incidental to the enjoyment of the dwellinghouse. Furthermore, the applicant has stated a use of games room/gym. However, the applicant has failed to demonstrate why an outbuilding of such a size is reasonably required for the stated uses.

An outbuilding of this size is considered to form a self-contained building, capable of independent occupation, within the curtilage of the site. The outbuilding is considered of sufficient size to be capable of independent occupation from the main dwelling and is thus tantamount to a separate dwelling in a position where such a dwelling would not be accepted.

Sufficient space is retained to comply with the Council's standards in terms of private amenity space as over 60m² of garden space is retained for the three bedroom dwelling.

6. RECOMMENDATION

REFUSAL for the following reasons:

1 NON2 Non Standard reason for refusal

The detached outbuilding, by reason of its size, scale, internal layout, facilities provided within and the availability of independent access, is considered capable of independent occupation from the main dwelling and is thus tantamount to a separate dwelling in a position where such a dwelling would not be accepted as it would constitute overdevelopment of the site. It is therefore contrary to policies AM14, BE19, BE21, BE23 and BE24 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) and to the Council's Supplementary Planning Documents HDAS Residential Extensions.

INFORMATIVES

- 1 On this decision notice policies from the Councils Local Plan: Part 1 - Strategic Policies appear first, then relevant saved policies (referred to as policies from the Hillingdon Unitary Development Plan - Saved Policies September 2007), then London Plan Policies (2016). On the 8th November 2012 Hillingdon's Full Council agreed the adoption of the Councils Local Plan: Part 1 - Strategic Policies. Appendix 5 of this explains which saved policies from the old Unitary Development (which was subject to a direction from Secretary of State in September 2007 agreeing that the policies were 'saved') still apply for development control decisions.

Standard Informatives

- 1 The decision to REFUSE planning permission has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).
- 2 The decision to REFUSE planning permission has been taken having regard to the policies and proposals in the Hillingdon Unitary Development Plan Saved Policies (September 2007) as incorporated into the Hillingdon Local Plan (2012) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including the London Plan (July 2011) and national guidance.

Part 1 Policies:

PT1.BE1 (2012) Built Environment

Part 2 Policies:

AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
BE13	New development must harmonise with the existing street scene.
BE15	Alterations and extensions to existing buildings
BE19	New development must improve or complement the character of the area.
BE20	Daylight and sunlight considerations.
BE21	Siting, bulk and proximity of new buildings/extensions.
BE23	Requires the provision of adequate amenity space.
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HDAS-EXT	Residential Extensions, Hillingdon Design & Access Statement, Supplementary Planning Document, adopted December 2008

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Notes:

 Site boundary

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Site Address:

21 Parkfield Avenue

LONDON BOROUGH OF HILLINGDON
 Residents Services
 Planning Section

Civic Centre, Uxbridge, Middx. UB8 1UW
 Telephone No.: Uxbridge 250111

Planning Application Ref:
31591/APP/2016/1937

Scale:
1:1,250

Planning Committee:
Central & South

Date:
September 2016

