

SECTION '2' – Applications meriting special consideration

Application No : 15/05035/FULL6

Ward:
West Wickham

Address : 202 Langley Way West Wickham BR4
0DU

OS Grid Ref: E: 539330 N: 166757

Applicant : Mr J Hill

Objections : YES

Description of Development:

Single storey detached outbuilding at land r/o 202 Langley Way for use as a dance practice studio for occupants of main house only.

Key designations:

Biggin Hill Safeguarding Area
London City Airport Safeguarding
Smoke Control SCA 2

Proposal

The application seeks planning permission for a single storey detached outbuilding on land to the rear of 202 Langley Way, West Wickham, for use as a dance practice studio for occupants of main house only. The building will measure 9m in length by 5m in width with a pitched roof 3.66m to the ridge and 2.5m to the eaves. A distance of 2m is shown to be retained to either side boundary, 4m to the boundary with the access track and 7m to the rear boundary shared with no's 281 and 283 Pickhurst Rise. The building will include one door and one window in the western elevation facing towards no. 202 and will be constructed of concrete blocks which will be painted (no colour is indicated) with a tiled roof. The statement submitted with the application indicates that the building is to be used for dance practice and will include a toilet. The statement also indicates that the building will be accessed by a gate from the back garden on no. 202.

Location

The application site comprises a parcel of land located to the rear of No. 202 Langley Way. No. 202 is an end of terrace property, which is part of a row of 6 houses numbered 202 to 212. There is a track to the side of no. 202 which provides access to the rear of this terrace and effectively severs the rear gardens of these properties so that there are additional grassed areas the other side of the track which border the rear boundaries of properties in Pickhurst Rise.

Consultations

Nearby owners/occupiers were notified of the application and the representations received are summarised as follows;

- o Application is identical to 15/02887 which was concluded unlawful
- o Application the same as 14/04202 which was refused and dismissed at appeal
- o The use has been declared as not lawful under ref: 15/02887/PLUD
- o South side elevation does not show the height of the roof ridge from ground level so 750mm needs to be added to the height
- o The south side elevation does not show the slope of the site so the west elevation will be higher than the rear elevation
- o The footprint of the building is almost as large as the main house
- o The bungalow sized building could morph into a habitable bungalow which attempts to change the use
- o The building is not an outbuilding as it is a substantial building
- o The dance studio use is out of keeping with the amenity of the secluded private gardens of neighbouring properties
- o Back garden, infill, tandem development
- o Loss of privacy
- o Overlooking
- o Loss of outlook
- o Noise and disturbance
- o Change of use to D2 which would not be allowable due to the restrictive covenant imposed in 1938
- o Increase in land levels
- o Over-dominant
- o Surface water drainage and flooding issues
- o Sets a precedent
- o Bulk, design and scale of the building fails to respect the pattern of development
- o Detrimental to the character and appearance of the area
- o Visually intrusive
- o Contrary to BE1
- o Severance to form a self-contained dwelling
- o Retrograde lowering of the spatial standards of the area
- o The building would be much larger than a large garage
- o No emergency access
- o Noise pollution
- o Inappropriate to use as a large commercial dance studio
- o Demand on parking
- o Trees in neighbouring gardens close to application site
- o Use of building as a dwelling or business
- o No need for toilet

Any further comments received will be reported verbally at the meeting.

Comments from Consultees

There were no internal or external consultees.

Planning Considerations

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The application falls to be determined in accordance with the following policies:

Unitary Development Plan

BE1 Design of New Development
H8 Residential Extensions

Supplementary Planning Guidance

Unitary Development Plan:

Supplementary Planning Guidance 1 General Design Principles
Supplementary Planning Guidance 2 Residential Design Guidance

Planning History

Planning permission was granted under ref. 84/00940 for a single storey side extension to No.202.

Planning permission was refused for outline permission for a chalet bungalow under ref. 11/02979 for the following reasons:

"1. The proposal represents a cramped form of backland development and an overdevelopment of the site by reason of the location and restrictive size of the plot available, detrimental to the character of the area and harmful to the amenities of surrounding residential properties. If permitted the proposal would establish an undesirable pattern for similar piecemeal infilling, resulting in a retrograde lowering of spatial standards, thereby contrary to Policies BE1 and H7 of the Unitary Development Plan.

2. In the absence of information to the contrary, the site would have inadequate turning area and unsatisfactory parking arrangement thereby contrary to Policies T3 and T18 of the Unitary Development Plan."

Planning permission was also refused for outline permission for a chalet bungalow under ref. 12/00954 for the same reasons as set out above. An appeal was subsequently dismissed.

Under ref: 14/04202/FULL6 planning permission was refused for an outbuilding to the rear for the following reasons;

"1 The bulk, design and scale of the building would fail to respect the pattern of development and would appear overly prominent, to the detriment of the character and appearance of the locality, visually intrusive when viewed from the neighbouring properties and would result in overlooking and the perception of overlooking of the rear garden areas, contrary to Policy BE1 of the Unitary Development Plan.

2 The proposal would, by reason of its size, location and relationship with 202 Langley Way, give rise to an unacceptable rise of severance to form a self-contained dwelling, detrimental to the character of the area, the amenities of neighbouring properties, a retrograde lowering of spatial standards and establishing an undesirable precedent for similar infill development, contrary to Policies BE1 and H8 of the Unitary Development Plan."

This application was subsequently dismissed at appeal.

Most recently a lawful development certificate for the 'Erection of single storey detached outbuilding to the rear of No. 202 Langley Way for use as a dance practice studio for occupants of main house only' was refused under ref: 15/02887/PLUD for the following reasons;

"1 The proposal as submitted would not constitute permitted development as it would not fall within the curtilage of the dwellinghouse and therefore cannot be considered under Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

2 The proposal as submitted would not constitute permitted development as the use would not be considered as a purpose incidental to the enjoyment of the dwellinghouse."

Conclusions

The main issues relating to the application are the effect that it would have on the character of the area and the impact that it would have on the amenities of the occupants of surrounding residential properties.

The application site was visited by the case officer and the aims and objectives of the above policies, national and regional planning guidance, all other material planning considerations including any objections, other representations and relevant planning history on the site were taken into account in the assessment of the proposal.

Policy BE1 requires that new development is of a high standard of design and layout. It should be imaginative and attractive to look at, should complement the scale, form, layout and materials of adjacent buildings and areas and should respect the amenity of the occupiers of neighbouring buildings. Policy H8 requires that alterations and enlargements of residential properties are of a scale, form and through use of materials respect or complement those of the host dwelling and are compatible with the surrounding area.

The site at present lies to the rear of No.202 Langley Way with an access road which runs between the rear garden and the area which the proposed outbuilding is to be located. The site at present is undeveloped. On adjacent sites, there are some small sheds and a single garage.

The site has been the subject of a number of previous planning applications. Application refs: 11/02979 and 12/00954 were for the erection of a dwelling, which were both refused, with the latter also having been dismissed at appeal. In dismissing this appeal, the Appeal Inspector stated that the site is in a prominent position, with the surrounding outbuildings being "small in relation to their respective garden plots", concluding that the proposal would not be in keeping with the character and appearance of the locality.

A further application for the erection of an outbuilding (ref: 14/04202) was also refused and dismissed at appeal due to its size and scale and the effect of the development on the character of the area. The outbuilding for this previous application measured 7m in width by 13m in length and a pitched roof to a maximum height of 5.2m, with the proposed use stated by the applicant to be for various family activities such as games, fitness apparatus and dance practice. The Appeal Inspector in assessing the appeal stated that the outbuilding would fill a large proportion of the area and whilst single storey, would have a significant height, and as a result the size and scale would dwarf the adjacent buildings and would appear completely at odds with the restrained domestic and ancillary character of the surrounding area.

Furthermore, the Appeal Inspector stated that the raised and prominent location would further highlight its inappropriate size and scale. Reference was also made to the intended use of the outbuilding as a dance studio for the personal use of the applicants daughter, but it was considered that this ancillary use would not overcome the harm caused by the size and scale of the building on the character and appearance of the surrounding area. In respect of the impact of the outbuilding on the amenities of the neighbouring residential properties, the Appeal Inspector concluded that there would be limited harm with regards to either direct or perceived overlooking or loss of outlook and as such reasonable living conditions would be retained. In addition, the Appeal Inspector stated that the generalised concern that the proposal would lead to severance of the site from no. 202 and establish an undesirable precedent for similar infill development, would not justify withholding permission in this case.

It is also noted that a further application for a lawful development certificate for an 'outbuilding for use as a dance practice studio for occupants of main house only' was refused as the proposal did not constitute permitted development as it would not fall within the curtilage of the dwellinghouse and the use was considered as a purpose incidental to the enjoyment of the dwellinghouse in relation to Class E of the GPDO.

Character and Appearance

The building now proposed, whilst still of substantial size, is significantly smaller than that previously refused permission and dismissed at appeal under ref: 14/04202. The outbuilding has been reduced in width by 2m and in length by 4m to a size of 5m by 9m. In addition, the height has been substantially reduced from a dual-pitched roof 5.2m to the ridge to 3.66m (2.5m to the eaves). The resultant reduction in the footprint of the building is half the previously refused application. It

is noted that whilst the application site is currently undeveloped, there are a number of small sheds and a single garage structure on adjacent land. The proposed outbuilding, whilst still being of a larger footprint than these adjacent outbuildings, would be of a height more commensurate with that of these surrounding buildings and that of a typical shed or garage. As noted under the previous applications, the site has a higher ground level than the road, and as such it is more prominent when viewed from the front of the dwelling and the surrounding properties. However, given the proposed height of the building, it would appear much less dominant when viewed from the neighbouring properties. Therefore, having regard to all the above, whilst it is noted that the size of the proposed outbuilding is still substantial, the reduced footprint and height would considerably reduce the visual appearance, bulk and scale resulting in a much less dominant structure more in keeping with the character and appearance of the area and thus overcoming the previous reason for refusal.

The statement submitted with the application states that the building will be painted in an appropriate colour. However, no details of the colour have been submitted. As such it would be considered appropriate to condition any approval to require details of the external materials to be submitted and approved to the Council before commencement of works to ensure these would be appropriate and would not cause harm to the appearance of the area.

Amenity of Neighbouring Residential Properties

In respect of the impact on the living conditions of the neighbouring residential properties, it is noted that the Appeal Inspector concluded that the previous application (ref: 14/04202), which proposed a larger and higher building, would not result in significant harm to the amenities of the neighbouring residential properties to warrant a refusal on this basis. As stated, the outbuilding proposed under this current application is of a much smaller size and does not propose any additional windows or doors. Taking this into account, the proposed outbuilding is not considered to result in a significant loss of amenity to neighbouring properties.

Other Matters

A recent application for a lawful development certificate for an 'outbuilding for use as a dance practice studio for occupants of main house only' (ref: 15/02887/PLUD) was refused as the proposal did not constitute permitted development. This was due to two reasons; it would not fall within the curtilage of the dwellinghouse and the use was considered as a purpose incidental to the enjoyment of the dwellinghouse in relation to Class E of the GPDO. This current application requires the Council to determine the application in relation to planning policy rather than a matter of whether it is "Permitted Development".

Concerns have been raised with regards to the use of the proposed outbuilding, and the potential for use as a commercial business or severance to form a dwelling. The applicant has submitted a statement dated 09.02.16 confirming that the proposed dance practice studio will be for personal use only and not for commercial purposes. Ref: 3 of the design and access statement, which was received on 18.11.15, also states that the applicant would be prepared to draw up

a legal agreement with Bromley Council to confirm that the proposed out building will never be altered or used as a dwelling. Accordingly, Members will need to consider whether a condition or legal agreement is appropriate in this case. It is noted that the Appeal Inspector, in respect of application 14/04202, stated that the intended use of the building as a dance studio for the personal use of the applicants daughter was accepted; however, determined that the building would not have such an ancillary use as to overcome the harm caused by the scale and size of the building.

As identified above, the significant reduction in the footprint and reduced height of the proposed building in relation to this current application is considered to adequately overcome the previous reason for refusal and therefore taking this, and the comments made by the Appeal Inspector with regards to the ancillary use, into account, as well as the statements received by the applicant in relation to the proposed use, this is not considered to warrant a reason for refusal on the basis that a condition may be imposed on any approval to ensure the use remains ancillary to the main residential dwelling and prevent a separate business or residential property.

Taking the above all into account, the outbuilding as proposed is considered to be acceptable, and would not result in any significant harm to the character and appearance of the host dwelling or area in general nor the amenities of the host or neighbouring properties. Accordingly, the extension is considered to comply with the aims and objectives of Policies BE1 and H8 of the UDP.

Background papers referred to during production of this report comprise all correspondence on the file, excluding exempt information.

as amended by documents received on 11.02.2016

RECOMMENDATION: PERMISSION

Subject to the following conditions:

- 1 The development to which this permission relates must be begun not later than the expiration of 3 years, beginning with the date of this decision notice.**

Reason: Section 91, Town and Country Planning Act 1990.

- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans approved under this planning permission unless previously agreed in writing by the Local Planning Authority.**

Reason: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the visual and residential amenities of the area.

- 3** Details of the materials to be used for the external surfaces of the building shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced. The works shall be carried out in accordance with the approved details.

Reason:In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the appearance of the building and the visual amenities of the area

- 4** No windows or doors additional to those shown on the permitted drawings shall at any time be inserted in the elevations of the outbuilding hereby permitted, without prior approval in writing of the Local Planning Authority

REASON: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the amenities of the adjacent properties.

- 5** The single storey detached outbuilding hereby permitted shall only be used for purposes incidental to the residential use of the main house and for no other purpose

REASON: In order to comply with Policies BE1 of the Unitary Development Plan and in the interest of the amenities of the adjacent properties.