

Committee date	Tuesday, 5 December 2023
Application reference	23/00686/FULH - 97 Bushey Mill Crescent
Site address	
Proposal	Erection of outbuilding for storage following demolition of existing garage (retrospective).
Applicant	Mr S Surenkumar
Agent	Mr John Asiamah
Type of Application	Full Planning Permission
Reason for committee Item	Over 5 objections received
Target decision date	7 December 2023
Statutory publicity	Neighbour letters
Case officer	Estelle Pengelly, estelle.pengelly@watford.gov.uk
Ward	Tudor

1. Recommendation

1.1 That planning permission be granted subject to conditions, as set out in section 8 of this report.

2. Site and surroundings

2.1 The subject site includes a semi-detached dwelling which sits to the corner on Bushey Mill Crescent. The northern boundary of the site with the neighbouring property at No. 95 Bushey Mill Crescent runs at an angle and the site widens significantly towards the rear. The site has a generous rear garden which extends to the east of the dwelling.

2.2 The property is not located in a designated conservation area or other Article 2(3) land and is not a listed building.

Summary of the proposal

3. Proposal

3.1 Retrospective application for the construction of a detached outbuilding. The outbuilding is used for storage. It is 4.6m wide and 7.6m deep with a flat roof, 2.8m in height. It is sited close to the shared boundary with No. 95 Bushey Mill Crescent. The building is rendered and painted white with three windows and one door.

3.2 Conclusion

The outbuilding is considered to be used for purposes incidental to the enjoyment of the main dwellinghouse. The character and appearance of the host dwelling and surrounding area would not be harmed, and the amenity of neighbouring dwellings would not be impacted.

There are considered to be no adverse effects that outweigh the benefits of the proposal, therefore it is recommended that the application should be approved subject to conditions.

4. Relevant policies

- 4.1 Members should refer to the background papers attached to the agenda. These highlight the policy framework under which this application is determined. Specific policy considerations with regard to this particular application are detailed in section 6 below.

5. Relevant site history/background information

- 5.1 22/00643/LDC: Lawful development certificate for a loft conversion including a hip-to-gable roof extension with rear dormer and two front rooflights. Granted 17.06.2022.

22/00649/HPD: The erection of a single storey rear extension which would extend beyond the rear wall of the original house by 6.00m for which the maximum height would be 3.00m and for which the height of the eaves would be 3.00m. Granted 23.06.2022.

22/00876/FULH: Erection of a first floor rear extension. Granted 23.08.2022.

22/01146/FUL: Proposed conversion to 3 flats - 1 x 1 bed flat, 1 x 3 bed flat and 1 x studio flat. Refused 17.11.2022.

22/01424/FUL: Conversion of existing property to two flats. Refused 30.01.2023

23/00092/LDC: Lawful Development Certificate for Erection of garage and storage outbuilding. Refused 20.03.2023.

Reason for refusal: The outbuilding is a large, self-contained detached building of around 100.2sqm to be used for domestic storage. The outbuilding is disproportionately large in relation to the main dwelling. A

building of this size and use is not considered to constitute an ancillary outbuilding for incidental use. The development is not therefore considered compliant with Schedule 2, Part 1, Class E(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 which states that it must be 'incidental to the enjoyment of the dwelling house'. For this reason, the outbuilding is not considered to constitute permitted development.

It should be noted that the proposals under this refused LDC application were different compared to the current application. Two outbuildings were proposed and the application was refused as the larger outbuilding at the rear of the property was considered to be too large to be incidental to the main dwelling. The other outbuilding (garage), which is somewhat similar to the current application in terms of its siting and size, was found to be compliant with the Town and Country Planning (General Permitted Development) (England) Order 2015.

5.2 The application was submitted on 7th August 2023 following an investigation by the Council's planning enforcement team.

6. Main considerations

6.1 The main issues to be considered in the determination of this application are:

- (a) Use of the outbuilding
- (b) Scale and design
- (c) Impact on the residential amenities of neighbouring properties

6.2 (a) Use of the outbuilding

Paragraph 8.16 of the Residential Design Guide (RDG) states that outbuildings are generally appropriate in residential areas when their uses are incidental to the use of the dwellinghouse. Non incidental uses would include, but are not limited to, independent business premises or independent dwellings. These non-incidental uses can create unacceptable habitable accommodation, harm to the built form of an area and harm the amenities of the neighbouring occupiers. Determining the nature of the non-incidental use is a case by case matter considering factors such as the size and location of the building, its relationship to the main dwelling, its facilities, its amenities and the intended use by the current occupier.

6.3 In this case, based on the information submitted and the case officer's site visit, the outbuilding is used for storage. There isn't a kitchen or bathroom and

therefore officers are satisfied that the outbuilding is and would be used for purposes incidental to the enjoyment of the main dwellinghouse. A condition will be attached to the planning permission to ensure that the outbuilding is only used for purposes ancillary to the main dwellinghouse and not as a separate unit of residential accommodation.

6.4 (b) Scale and design

Policies QD6.1, QD6.2 and QD6.4 of the Watford Local Plan seek high quality design in all new development. Paragraph 8.16 of the Residential Design Guide (RDG) states that stand-alone detached buildings within the curtilage of existing properties are only likely to be acceptable in the gardens of properties where such buildings form part of the existing character of the area. Their acceptability will be subject to their size and the size of the rear garden.

The application site and neighbouring properties have large rear gardens and many neighbouring properties have outbuildings in their rear gardens. This, combined with the fact that the outbuilding is 2.8m high with a flat roof and has a 35m² footprint, lead officers to consider the outbuilding appropriate for a garden setting. The scale and design is considered acceptable in terms of its impact on the character and appearance of the area.

6.5 (c) Impact on the residential amenities of neighbouring properties

Paragraph 8.4 of the Residential Design Guide (RDG) states that proposals must not adversely affect the level of amenity enjoyed by the occupiers of neighbouring properties. The adjoining properties potentially affected by the outbuilding would in this case be Nos. 95 and 99 Bushey Mill Crescent.

6.6 The outbuilding is sited close to the shared boundary with No. 95. The outbuilding might have a modest impact on the neighbour at No. 95, however, due to the separation distance between the outbuilding and the neighbour's dwelling, and the properties' large rear gardens, the impact of the outbuilding is considered limited and not so detrimental such as to warrant a reason for refusal on amenity grounds.

6.7 The outbuilding faces towards No. 99 and neighbours have raised concerns about loss of privacy, however, the outbuilding is single storey and used for storage purposes. The window facing the neighbour is not considered to result in loss of privacy and would have a similar outlook to the applicant's general garden usage. Furthermore, under the provisions of Permitted Development, the owner can construct a similar outbuilding in the same location with the same use without planning permission. It would therefore be unreasonable to refuse an outbuilding on loss of privacy grounds.

6.8 On this basis, the proposal would not result in any unacceptable effects on the neighbours' residential amenity and therefore the proposal is deemed acceptable.

7. Consultation responses received

7.1 **Statutory consultees and other organisations** – None

7.2 **Internal Consultees** – None

7.3 **Interested parties**

Letters were sent to 36 properties in the surrounding area. Sixteen objections were received from 11 properties. The main comments are summarised below, the full letters are available to view online:

Comments	Officer response
Retrospective application – the applicant lacks consideration for neighbours and the council and did not follow the correct procedures.	The applicant is now trying to regularise the outbuilding through this application.
Council lacks control and is unable to enforce its planning permission policies. Council turns to its residents to decide the outcome. It shouldn't be a democratic decision. The building was completed against policy should be removed.	<p>The LPA's enforcement team does not have the capacity to monitor all building works within the Borough. The LPA appreciates the role of residents in reporting unlawful building works which allows the enforcement team to actively investigate and attempt to resolve every incident.</p> <p>Retrospective planning applications are determined in the same way as non-retrospective applications by planning officers and committee meetings.</p> <p>Officers acknowledge that the outbuilding was constructed without planning permission, but its use and design is not contrary to policy.</p>
Large outbuilding, unsure about storage use, and use in future.	A condition will be attached to the planning permission to ensure that

	<p>the outbuilding is only used for purposes ancillary to the main dwelling and not as a separate unit of residential accommodation. The planning condition is enforceable and will prevent the building being used as a wholly independent dwelling or as a rental property.</p>
<p>Planning permission was refused for two flats. The developer has proceeded to divide the property into two flats. Can the council complete due diligence with regards to this matter.</p>	<p>This is not a matter of specific relevance to the current application. The LPA's Enforcement team has investigated and resolved this matter.</p>
<p>If the council allows this building, anyone else in the Crescent is then able to build large dwellings in their gardens without planning permission. Strongly opposed to the dwelling.</p>	<p>The properties benefit from Permitted Development rights and could construct outbuildings without the need for planning permission providing they are for incidental use. In this case, the height of the building requires an application for planning permission. The building is used for storage, not living accommodation.</p>
<p>Unusual storage space, this is not the final intention.</p>	<p>The LPA cannot base decisions on speculations on future uses. A condition will be attached to the planning permission to ensure that the outbuilding is only used for purposes incidental to the main dwelling and not as a separate unit of residential accommodation.</p>
<p>The building is not in keeping with the neighbourhood.</p>	<p>The outbuilding is considered appropriate in scale and design. Refer to paragraph 6.4. Furthermore, the property has Permitted Development rights and an outbuilding could be constructed without the need for planning permission. In this case, the height of the building exceeds the permitted height by 0.3m and therefore the structure requires an application for planning permission.</p>

Overlooking garden.	The outbuilding is single storey and used for storage purposes. The window facing the neighbour is not considered to result in loss of privacy and would have a similar outlook to the applicant's general garden usage as discussed in paragraph 6.7 of this report.
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8. Recommendation

8.1 That planning permission be granted subject to the following conditions:

Conditions

1. Approved drawings

The development hereby permitted shall be carried out in accordance with the following approved drawings:

AR01 Rev A,
AR03 Rev A,
Site location plan.

Reason: For the avoidance of doubt and in the interests of proper Planning.

2. Use

The outbuilding hereby approved shall be used only for purposes incidental to the residential use of the main house. It shall not be used for any other purpose and shall not be occupied as habitable accommodation or as an independent dwelling.

Reason: To safeguard the amenities of neighbouring properties and to prevent any other uses which may not be suitable for the site or context, in accordance with Policies QD6.2 and QD6.4 of the Watford Local Plan 2021-2038.

Informatives

1. IN907 – Positive and proactive statement