



# Appeal Decision

Inquiry held on 15 May 2007

Site visit made on 15 May 2007

by **Peter Willows** BA DipUED MRTPI

an Inspector appointed by the Secretary of State  
for Communities and Local Government

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Date: 5 June 2007

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## Appeal Ref: APP/N5090/A/06/2030822

### 46 Woodstock Road, London NW11 8ER

- 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 Jonathan Hayeem against the decision of the Council of the London Borough of Barnet.
- The application Ref C09362E/06, dated 4 September 2006, was refused by notice dated 9 November 2006.
- The development proposed is described as 'retention of single storey outbuilding in garden'.

**Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.**

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### Application for costs

1. At the Inquiry an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

### Procedural Matters

2. I have amended the description of the proposal in the formal decision so as to refer to the erection of the building rather than its retention, since I consider that this more properly describes the development which has taken place. I have also deleted the unnecessary reference to the garden.
3. At the Inquiry I was provided with a site location plan (Document 6 in the list appended to this decision) which both main parties confirmed was the location plan that formed part of the proposal considered by the Council.

### Main issues

4. There are 3 main issues, which are:
  - the effect of the development on the living conditions of neighbours;
  - the effect of the development on the character and appearance of the locality; and
  - whether the proposal would preserve or enhance the character or appearance of the adjacent Golders Green Conservation Area.

### Planning Policy

5. The Development Plan includes the Barnet Unitary Development Plan (UDP), which was adopted in 2006. Policy H27 requires detached buildings within the
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grounds of houses to cause no significant harm to the amenity of neighbours, to maintain the appearance of the street scene, to harmonise with existing and neighbouring properties and to be in keeping with them in terms of scale, proportion, design and materials. Policy HC1 does not permit developments which fail to preserve or enhance the character or appearance of conservation areas.

6. The Council refers to its Design Guidance Note No 5 *Extensions to Houses* (DGN5). This was approved in 2003 following public consultation, and I give it significant weight in determining this appeal. DNG5 advises that detached buildings in back gardens should not be too large or significantly reduce the size of a garden to become out of character with the area, should not affect the outlook from an adjoining property's habitable rooms or principal garden area and that their design and materials should be in harmony with the surrounding area.

### **Reasons**

7. The appeal building is a simple, flat roofed, brick built structure, with 2 doors and 2 windows arranged symmetrically in the front elevation. It is positioned at the end of the rear garden of No 46 and faces the rear of that property, which has been divided into 3 flats. The appeal building is required for ancillary domestic use in connection with the ground floor garden flat of No 46. Although there has been much speculation and comment about the potential for the building to be used as a separate dwelling unit (or units), I have considered only the proposal before me, which does not seek such a use.
8. Behind the appeal building are buildings fronting Accommodation Road. These form the boundary of the adjacent Golders Green Conservation Area within which they fall. The rear wall of the buildings, which is of red brick with render detailing, provides a rear garden wall for the dwellings on Woodstock Road.

### *Living Conditions*

9. The building is prominent when viewed from neighbouring property, and occupies virtually the whole width of the garden. However high garden walls (approximately 1.8m) to either side screen much of the building from adjacent gardens. Additionally, the appeal site and the neighbouring gardens are lower than the dwellings, which I consider reduces the impact of the appeal building when seen from them. Its prominence is also limited due to the buildings to the rear against which it is viewed, which are much higher than the appeal building. I do not consider the fact that the building is physically linked to an adjacent garage adds to its impact. Taking these factors together, I conclude that the building is not overbearing in relation to neighbouring properties and does not harm their outlook to an unacceptable degree.
10. Although the ground floor windows of neighbouring properties, including the kitchen window of No 44, are within the line of sight of the windows in the appeal building, I do not consider the relationship to be unacceptable, bearing in mind the distances between the buildings, the angles of view and the ancillary use of the appeal building. Nor do I find that the building would lead to any increase in noise and disturbance, having regard to the ancillary nature of its use. I conclude that there is no significant harm to the living conditions of neighbours.

*The character and appearance of the locality*

11. The building is virtually impossible to see from any public vantage point. While of a plain design, I do not consider that it has such a significant impact when seen from surrounding properties as to cause harm to the character and appearance of the locality. In my view the building would leave a sufficient area of the garden to ensure that the pleasant character of the locality is not harmed due to the extent of development proposed.
12. The Council considers that outbuildings, particularly ones of the size of the appeal proposal, are not a common feature of the area. However, outbuildings do exist in the area and, even if there are relatively few larger structures, I do not think that their rarity is such that it contributes significantly to the character of the area. I conclude that neither the character nor the appearance of the area would be harmed by the proposal. Taking this together with my finding on the first issue, I conclude the proposal is in accordance with UDP policy H27 and DGN5.

*The Conservation Area*

13. The building has no effect on views into or out of the Conservation Area. I do not consider that its one impact on the Conservation Area, which is to partially obscure the rear wall of the building behind it, which can only be seen from the properties on Woodstock Road, materially affects the setting of the Conservation Area. Consequently, while I note that UDP policy HC1 does not exclude private views of the Conservation as a material consideration, I conclude that the proposal preserves the character and appearance of the Conservation Area, and that there is no conflict with policy HC1.

**Other Matters**

14. Although the building has been built without planning permission, that has not affected my consideration of its planning merits. I note that the flat roof of the building has apparently been used as part of an escape route in connection with criminal activity, but flat roofs are a common feature in most areas, and I do not consider that planning permission should be withheld for that reason. While planning applications to convert and extend the adjacent garage to form a dwelling have previously been refused (refs C09362C/04 and C09362D/04) those proposals were quite different to that before me, both involving the creation of a 2 storey building to be used as self-contained living accommodation.

**Conclusions**

15. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

**Conditions**

16. I have attached a condition, as agreed by both main parties, restricting the use of the building to uses incidental to the ground floor flat at No 46, in the interests of the living conditions of neighbours. I have not attached any condition along the lines discussed at the Inquiry requiring the removal of a door or window, since I am not persuaded that the building is harmful in its current form.

### **Formal Decision**

17. I allow the appeal, and grant planning permission for the erection of a single storey outbuilding at 46 Woodstock Road, London NW11 8ER in accordance with the terms of the application, Ref Ref C09362E/06, dated 4 September 2006, the site location plan dated 4 September 2006 and the plans numbered GA.01 and GA.02, subject to the following condition:

- 1) The building hereby permitted shall at all times be used solely for purposes incidental to the enjoyment of the dwelling at The Ground Floor Garden Flat at 46 Woodstock Road.

*Peter Willows*

INSPECTOR

- APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Peggy Etiebet	Of Counsel, instructed by Chileme Hayes, Barnet Legal Services
She called	Councillor Jack Cohen

FOR THE APPELLANT:

Tom Cosgrove	Of Counsel, instructed by Alvin Ormonde, PPMS, 32 Sneath Avauue, London NW11 9AH
He called	Alvin Ormonde

INTERESTED PERSONS:

Trevor Morse	44 Woodstock Road, London NW11 8ER
Memoria Lewis	44 Woodstock Road, London NW11 8ER

DOCUMENTS

- 1 Attendance List
- 2 Notification Letter
- 3 Letter from Malcolm Yale dated 20 April 2007
- 4 Aerial photograph
- 5 Photographs
- 6 Location Plan
- 7 Photographs taken from 44 Woodstock Road
- 8 Details of J H Ventures Ltd
- 9 Land Registry map
- 10 Company Register Information
- 11 Land Registry details – 46 A Woodstock Road
- 12 Land Registry details – 25 Basing Hill
- 13 Land Registry details – 48 Woodstock Road
- 14 Land Registry details – 46 Woodstock Road
- 15 Petition dated 6 November 2006
- 16 Petition dated 3 January 2007
- 17 Letter dated 4 January 2007
- 18 Newspaper article dated 23 November 2006