

Grounds of Appeal

Against a Refusal to Grant Planning Permission

Appellant: Mr & Mrs N Merlo

Appeal Site: 22 Blackmore Way, Blackmore End, St Albans, Hertfordshire, AL4 8LJ

Appeal Proposal: Erection of detached rear garden room to facilitate gym/sauna/workshop

LPA Ref: 24/01823/FPH

Brian Parker
BA MSc MRTPI

MRP Planning
10 Orient Close, St Albans, Hertfordshire AL1 1AJ



Personal Statement



1. My name is Brian Parker. I have a BA (Hons) in Geography and an MSc in Urban and Rural Planning, and I am a Member of the Royal Town Planning Institute. The evidence in this document has been prepared and is given in accordance with the guidance of the RTPI and I confirm that the views expressed are my genuine professional opinions.

S78 Appeal

2. The Householder Appeal is made under Section 78 of the Town and Country Planning Act 1990 against the refusal of North Hertfordshire Borough Council (the Council) to grant permission for changes to the Appellants' family home.
3. The Application, Ref: 24/01823, was received with sufficient particulars on 2nd September 2024 and Refused on 10th December 2024. The Decision Notice is attached as Appendix 1 and the Officer Report as Appendix 2.

The Proposal and Summary

4. The Proposal is to meet the changing needs of the Appellants by constructing an outbuilding in their large rear garden which will house a gym, a sauna and a shower, plus a workshop and a kitchenette.
5. Whilst the Design and Access Statement (DAS) cites the purpose of planning (at 3.10), and explains why the proposal represents an example of sustainable development (in Section 5), the Officer Report makes no reference, whatsoever, to this fundamental concept.
6. In an established residential area with no formal protection such as an Article 4 Direction, Conservation Area status or Green Belt designation, the carefully-designed scheme retains sufficient amenity space and off-street parking whilst causing no harm to the amenity of neighbours.
7. However, the scheme has been refused because the Council failed even to consider the presumption in favour of sustainable development (let alone apply it) and, instead, relied upon a subjective view that the proposed outbuilding is "too big" and would lead to "urbanisation".

Reason for Refusal

8. There is one Reason for Refusal which states:

"It is considered that the proposed outbuilding would result in the urbanisation of the rear garden and a form of development contrary to local character, harmful to the appearance of the site and area. The proposal is therefore deemed contrary to Policies D1 and D2 of the Local Plan and Section 12 of the NPPF."

9. It is crucial to note that there is no suggestion of any objective harm by, for instance, the outbuilding intruding into the 45-degree line of a neighbour's window or towering over the garden fences. Instead, the reason for refusal is purely subjective and given without any reference to the presumption in favour of sustainable development.

The Council's Case

10. At 4.3.1 the Officer Report, the Council identifies the Key Issues for consideration, before assessing them under four headings:

- Design and Layout
- Impact on Neighbouring Properties
- Parking
- Environmental Implications

11. Because the Council had no choice but to acknowledge that this minor proposal will have no harmful impact on neighbouring properties, parking or the environment, its sole objection is in respect of Design and Layout. As it cannot point to any objective harm, the explanation behind the Reason for Refusal is contained in paragraph 4.3.6 of the Officer Report:

"In my view, although the applicant has reduced the size of the outbuilding, I still consider that a large outbuilding within this location to be contrary to the character of the locality. Although some weight is given to the large outbuildings at 14 and 26 Blackmore Way and the two storey dwelling at 28 Blackmore Way being rebuilt further down the garden, the proposed scheme fails to overcome the previous reason for refusal. In my view, the proposed development would be too large for the residential setting and no PD fallback has been demonstrated."

12. Whilst the NPPF requires decision-making to be *"positive and creative"* (DAS [3.12])¹, the first two sentences reflect the negative approach that the Council has taken. It begins by stating that large outbuildings within this location would be contrary to the character of the locality but then is forced to acknowledge that they are actually present in the locality.

¹ Paragraph 38 in the December 2023 NPPF applicable when the Council made its decision, Paragraph 39 in the current version.

13. As the Council also had to acknowledge (at 4.3.4) that the outbuilding “*would not be visible from the public realm*”, neither the character nor appearance of the area is harmed in any way from any public viewpoint (DAS [4.7]).
14. Because the outbuilding is of a size which causes no harm, the conclusion that it is “too large” is irrational. It is clearly of a size which delivers what the present homeowner wants without compromising the rights, needs or amenity of anyone else.
15. Finally, on 4.3.6, the purpose of the final sentence is unclear. The Appellants have the right to build an outbuilding under PD, so a fallback does exist. However, whilst an outbuilding with a much larger footprint could be built under PD (because of the size of the garden – see DAS [4.7]), its proximity to the boundary would have restricted the ridge height to 2.4 metres and resulted in a flat-roof design. The Appellants were clear about their desire for a pitched roof and vaulted ceiling to make the outbuilding – that they will see and use every day – a high-quality, attractive design, just as required by national and local policy. Hence, a Householder Application was submitted.
16. Whilst not mentioned in paragraph 4.3.6, or elsewhere in the Officer Report, the Reason for Refusal claims the outbuilding will lead to “urbanisation”. As set out in the DAS [4.10-4.11], this claim is nonsensical.

Overall Conclusion

17. The Council’s objection to the construction of the proposed outbuilding which causes no objective harm, in a large rear garden in an established residential area where outbuildings already exist in large rear gardens, is subjective and unreasonable. It also represents a failure to engage with the basic concept of sustainable development.
18. Consequently, it is respectfully requested that the Appeal is Allowed.

Brian Parker
BA MSc MRTPI
December 2024

Appendices – separate documents

Appendix 1 – Decision Notice

Appendix 2 – Officer Report