
Appeal Decision

Site visit made on 19 September 2016

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

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

Decision date: 12 October 2016

Appeal Ref : APP/G5750/C/16/3145473

Land at 24 Victoria Road, Plaistow, London, E13 OAE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Liaqat Khan against an enforcement notice issued by the Council of the London Borough of Newham.
- The notice was issued on 29 January 2016.
- The breach of planning control as alleged in the notice is without planning permission the erection of an outbuilding.
- The requirements of the notice are either 1. demolish the outbuilding (as shown edged blue on the plan attached to the notice); 2. remove from the site all debris arising from compliance with the above step or 1. reduce the size of the outbuilding (as shown edged blue on the plan attached to the notice) so that the height of the outbuilding is no more than 2.5 metres above ground level; 2. render and paint all exposed exterior walls facing the adjoining properties; 3. remove from the site all debris arising from compliance with the above steps.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: the appeal is dismissed and the enforcement notice is upheld

Preliminary Matters

1. The Appellant says that the notice is unclear in that it doesn't specify the height of the outbuilding and how much it is to be reduced. An enforcement notice must describe the alleged breach and tell a recipient what must be done to secure compliance with the notice. Reading the notice as a whole the Council's concerns are clear and there is no requirement to specify the actual height of the outbuilding in the notice. The requirements provide for either demolition or reduction in height to no more than 2.5 metres above ground level. I find that the notice adequately describes the breach and that its requirements are clear.
2. Although on the papers before me the parties do not appear to agree on the exact dimensions of the outbuilding both parties agree that it exceeds 2.5 metres above ground level at its rear. There is no ground (c) appeal before me and no argument that the outbuilding has the benefit of permitted development rights and on the evidence before me I have no reason to conclude otherwise.

Ground (a) appeal and deemed application

Main issues

1. The main issues in the determination of this appeal are the effect of the development on (i) the character and appearance of the host dwelling and surrounding area and (ii) the living conditions of current and future occupiers of the property with particular regard to amenity space.

Character and appearance

2. The development plan (including the London Plan, the Newham Core Strategy and saved policies in the Newham Unitary Development Plan) mirrors the National Planning Policy Framework (the Framework) in emphasising the need for development to respect its setting and achieve high quality development. Policy SP3 of the Core Strategy provides that all development proposals are expected to realise a high quality of urban design. I have also taken into account Supplementary Planning Guidance 'Altering and Extending your home' (the SPG) which in relation to sheds and garden buildings sets out a number of guidelines including keeping buildings in proportion to the size of the garden, the use of sympathetic materials and not taking up too much garden area. The Detailed sites and policies Development Plan Document is drawn to my attention but as it is not yet adopted this reduces the weight I attach to it.
3. The appeal site is a two storey end of terrace residential property. The surrounding area is predominantly residential with a school nearby. The unauthorised outbuilding sits in the rear garden of the site. It has a red brick front, breezeblock sides and a mono pitch roof.
4. The outbuilding is located on the rear boundary and extends almost the full width of the site. The garden area is relatively small and the outbuilding takes up a relatively large part of that garden area. The size of the outbuilding is disproportionate in its domestic garden setting. It is visible from the main dwelling and neighbouring properties, including no 22 Victoria Road and properties to the rear of the garden. The materials used in its construction are not sympathetic to the setting and they contribute to its block-like appearance. Its dominant visual presence is not subservient to the main dwelling and by reason of its size, materials and close proximity to the boundaries it is out of keeping in its residential garden setting.
5. The Appellant says that tall trees in neighbouring gardens obscure views of the outbuilding and detract from the openness of the immediate area. But I saw from my site visit that the outbuilding is clearly visible from the main dwelling and neighbouring properties.
6. For the reasons given I conclude that the development causes harm to the character and appearance of the host dwelling and the surrounding area contrary to the development plan (including policy SP3 of the Core Strategy), the Framework and the SPD.

Living conditions

7. The outbuilding faces the main dwelling and significantly reduces the private amenity space available to its occupiers. The close proximity to the host dwelling adversely affects the ability of current and future occupiers to enjoy

that space for recreation and quiet enjoyment. It does not comply with the SPD which specifically discourages garden buildings that take up too much garden space.

8. I conclude that the development causes undue harm to the living conditions of current and future occupiers of the main dwelling by reason of loss of private amenity space. No material considerations outweigh that harm.

Other matters

9. The Appellant says that he was not aware of the need for planning permission and was advised by an officer of the Council that the outbuilding was acceptable subject to painting a wall. But these matters are not grounds of appeal and therefore outside the remit of this appeal.

Conclusion

10. I have considered whether conditions could overcome the identified harm. I have taken into account the Planning Practice Guidance. No conditions are suggested by the parties but the Appellant says that he will paint the walls of the outbuilding. I do not consider that a condition requiring the painting of the outbuilding will fully remedy the identified harm.
11. For the reasons given above, I conclude that the development causes harm to the character and appearance of the main dwelling and surrounding area and harm to the living conditions of the occupiers of the main dwelling by reason of loss of private amenity space. The appeal on ground (a) should not succeed and planning permission should not be granted on the deemed application.

Formal Decision

12. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

S. Prail

Inspector