
Appeal Decision

Site visit made on 12 December 2016

by Katie Peerless Dip Arch RIBA

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

Decision date: 4 January 2017

Appeal Ref: APP/T5150/C/16/3145660
114 Chichele Road, London NW2 3DH

- 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 Mrs Lai-Chun Tai against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice, numbered E/12/0403, was issued on 2 February 2016.
 - The breach of planning control as alleged in the notice is the erection of a building in the rear garden of the premises.
 - The requirements of the notice are STEP 1 Demolish the building in the rear garden of the premises. Step 2 Remove all debris and items arising from that demolition and remove all materials associated with the unauthorised development from the premises.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (c) of the Town and Country Planning Act 1990 as amended.
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Decision

1. 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.

Main Issues

2. I consider the main issues in this case are, on ground (c), whether the building is authorised by Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) and, if not, on ground (a) and the deemed application for planning permission, the effect of the development on the character and appearance of the surrounding area and the living conditions of occupiers of the host building.

Site and surroundings

3. The enforcement notice is directed against an outbuilding in the rear garden of a terraced house on a corner plot. The main house has been sub-divided into flats and the building is presently being used for storage. It consists of 2 rooms and is entered through a door in the front of the building, on either side of which are windows, one serving each room. The building has an electricity supply but there is apparently no water service laid on.
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Reasons

Ground (c)

4. At the site visit, the height of the outbuilding was measured and found to be 2730mm above ground level and at a maximum distance of 1.15m from the site boundary. This means that it exceeds the limit set by Class E1(e)(ii) of Part 1 of Schedule 2 of the GPDO and is not, therefore, granted planning permission through the provisions of this Order
5. Even if this was not the case, the host building has been sub-divided into flats and it therefore no longer falls within the definition of a dwellinghouse as given in s2(1) of the GPDO. The appellant has indicated that the outbuilding has been erected to provide storage for the rental properties within the main building, confirming the use at the time the building was erected. Now that the house has been converted into flats, there are no longer any permitted development rights available to it under Class E of the GPDO. No other planning permission has been granted for the outbuilding and the appeal on ground (c) consequently fails.

Ground (a)

6. The appellant asks that planning permission is granted for the building as erected. However, in my opinion, the building is out of character with the surroundings, being of a style that is not reflective of a typical garden building and occupying the full width of the site, thereby taking up a considerable portion of the private land available to the rear of the property. The main house is of a substantial size and the loss of a significant part of the garden amenity space is, in my opinion, harmful to the living conditions of the occupants. This is particularly relevant given the current use as flats and the increase in the numbers of residents in separate households that the main building is now likely to be able to accommodate.
7. Whilst the outbuilding may appear similar to another erected in the garden of the adjoining property, the Council has confirmed that no planning permission has been granted for that example and an enforcement investigation is presently being undertaken in respect of it. This neighbouring development has not, therefore, set a precedent for the appeal building.
8. The Council is also concerned that the building could potentially be used as a separate dwelling and I note that there is a side access to the rear garden that could be used to access the building without entering the main house. The appeal building appeared unfinished internally and given, that it is already internally sub-divided into 2 sections and has domestic style door and windows, I can understand this concern.
9. The building has a floor plan of over 4m x over 6m and, although I note that the appellant has stated that the building will not be used for residential purposes, if granted planning permission there is the likelihood that a different owner might want to make another use of it. A structure of this design, which is larger than permitted by the GPDO and which does not have the appearance of a storage building could, I consider, readily be adapted for a residential use.

10. The policies cited in the enforcement notice from the London Borough of Brent (LBB) Unitary Development Plan 2004 have now been superseded by those in the LBB Development Management Policies November 2016. Policy DMP1 from this Plan requires development to be of, amongst other things, a layout, scale, type, detailing and design that provides high levels of external amenity and complements the locality.
11. I find that the development conflicts with this policy and also with policy CP17 of the Brent Core Strategy 2010 which seeks to protect the distinctive suburban character of Brent from inappropriate development and notes that development of garden space and infilling of plots with out-of-scale buildings that do not respect the settings of the existing dwellings will not be acceptable.

Conclusions

12. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Katie Peerless

Inspector