
Appeal Decisions

Site visit made on 24 January 2017

by Paul Freer BA (Hons) LLM MRTPI

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

Decision date: 21 February 2017

Appeal A Ref: APP/G5750/C/16/3161281

Land at 76 Monega Road, Forest Gate, London E7 8EW

- 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 Harilal Varsani against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice was issued on 23 September 2016.
 - The breach of planning control as alleged in the notice is, without planning permission, the erection of security cameras and associated extended mountings.
 - The requirements of the notice are:
 1. Remove the security cameras and associated extending mountings.
 2. On completion of Step 1 above, remove all materials and debris from the site.
 - The period for compliance with the requirements is one month.
 - 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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Appeal B Ref: APP/G5750/C/16/3161282

Land at 76 Monega Road, Forest Gate, London E7 8EW

- 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 Harbai Varsani against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice was issued on 23 September 2016.
 - The breach of planning control as alleged in the notice is, without planning permission, the erection of security cameras and associated extended mountings.
 - The requirements of the notice are:
 1. Remove the security cameras and associated extending mountings.
 2. On completion of Step 1 above, remove all materials and debris from the site.
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the grounds set out in section 174(2) (c) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.
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Summary Decisions: The appeals are dismissed and the enforcement upheld as corrected

Procedural Matters

1. The breach of planning control as alleged in the notice is, without planning permission, the erection of security cameras and associated extended mountings. However, in relation to the second aspect, the requirements at paragraph 5.1 of the notice refer to 'extending' mountings rather than 'extended' as defined in the breach of planning control. I have not been
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provided with any evidence to indicate that the length of the mountings is capable of adjustment or that the mountings are extendable. In any event, the use of the terms 'extended' and 'extending' is superfluous. I shall therefore correct the notice to simply refer to 'associated mountings'. I am satisfied that neither the appellants nor the Council would be caused injustice by so doing.

The appeals on ground (c)

2. The ground of appeal is that the matters alleged in the enforcement notice do not constitute a breach of planning control. The essence of the appellant's case on this ground is that the security cameras and associated mountings do not require planning permission. The appellants do not contend that the security cameras and associated mountings do not constitute development for the purposes of the Town and Country Planning Act 1990. I shall therefore focus on whether the security cameras and associated mountings constitute permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
3. Article 3, Schedule 2, Part 2, Class F of the GPDO indicates that the installation, alteration or replacement on a building of a closed circuit television camera to be used for security purposes is permitted development, subject to the limitations set out in Class F.1 and the conditions set out in Class F.2. The limitations at Class F.1 include that development is not permitted if (d) any part of the camera would protrude from the surface of the building by more than one metre and (f) would be less than 10 metres from any part of another camera installed on a building. Furthermore, development is permitted by Class F subject to the condition at Class F.2 (a) that the camera shall, so far as practicable, be sited so as to minimise its effect on the external appearance of the building on which it is situated.
4. It is apparent that the two cameras are located within 10 metres of each other on the front elevation, such that they do not accord with the limitation at Class F.1(f). The appellants have also not demonstrated that no part of the camera protrudes from the surface of the building by more than one metre, such that the limitation at Class F.1 (d) is complied with. Moreover, both cameras are located in prominent elevated positions on the front elevation. I am not convinced and the appellants have not demonstrated that alternative locations for these cameras could not be found that would have less effect on the external appearance of this building. Consequently, the cameras as presently installed do not comply with the condition at Class F.2 (a).
5. I conclude that the security cameras and associated mountings do not constitute permitted development under Article 3, Schedule 2, Part 2, Class F of the GPDO. The security cameras therefore required express planning permission at the time they were installed.
6. The appellants explain that they made enquiries on the Council's website as to whether planning permission was required for the security cameras. The appellant has also provided a screen shot from the Planning Portal which indicates planning permission is not normally required for installing a CCTV camera, although it does advise house owners to check with the local planning authority if the property is within a listed building or in a conservation area. Because the appeal property falls into neither of those categories, and further enquiries with the Council's Planning Department did not provide any further clarification, the appellants proceeded to install the cameras.

7. Whilst I appreciate that the complexities of the GPDO may make it difficult for home owners to understand whether planning permission is required, the guidance on the Planning Portal is clearly qualified by the word 'normally'. This is a clear indication that there may be situations where planning permission is required for the installation of security cameras. This is one of those situations. Consequently, whilst I have some sympathy with the appellants in terms of their attempts to navigate the complexities of the planning system, ultimately the responsibility for obtaining all necessary consents and permissions before undertaking development lies with the owner of the property.

Conclusion of the ground (c) appeal

8. I have found that the security cameras and associated mountings do not constitute permitted development under the GPDO. These matters, as alleged in the enforcement notice, therefore do constitute a breach of planning control. Accordingly, the appeals on ground (c) fail.

The appeal on ground (a) (Appeal A only)

9. The ground of appeal is that planning permission ought to be granted. The Council has stated one substantive reason for issuing the enforcement notice, from which the main issue raised is the effect of the security cameras and associated mountings on the character of the host property.
10. The appeal property is a two-storey terraced house located on the north side of Monega Road and dating to the Victorian period. The property forms part of a lengthy terrace of houses of similar age and character that runs practically the entire length of Monega Road. Consequently, notwithstanding some minor differences in detailing and appearance, the terrace of which the appeal property forms a part presents a cohesive residential character to the street scene and, moreover, one that is firmly predicated on the Victorian period during which the properties were constructed.
11. The security cameras and associated mountings, by reasons of their size, design and prominence, are out of keeping with the residential character of the host property. Furthermore, the modern appearance of the security cameras is out of keeping with the Victorian period from which the building dates and from which its character is largely derived. For all these reasons, the security cameras and associated mountings represent discordant and incongruous additions that are out of character with the host property.
12. I conclude that the security cameras and associated mountings unacceptably harm the character of the host property. I therefore conclude that the breach of planning control conflicts with Policies 7.1, 7.4, 7.6 of The London Plan; Policies S6,SP1,SP3 and H1 of the London Borough of Newham Core Strategy, and Policy H17 of the London Borough of Newham Unitary Development Plan. These policies indicate, amongst other things, that the Council will require all new development to provide high levels of design quality and will seek that new development fits with the existing character. The security cameras and associated mountings also fail to accord with the importance attached to good design in the National Planning Policy Framework.

Other Matters

13. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. I have found that the security cameras and associated mountings subject to the enforcement notice do not accord with the development plan. I must therefore consider whether there are any matters of sufficient weight to indicate that determination should be otherwise than in accordance with the development plan.
14. In this context, the appellants have referred to a number of news articles based on CCTV coverage in the Newham area. These articles show that, in those examples, CCTV coverage assisted the authorities in dealing with various anti-social acts and criminal offences. The appellant also refers to two specific acts against his own property, one involving a brick being thrown through a window and the other involving damage to his car when parked on the public highway outside the property. In accordance with the judgment in *R v Kerrier DC ex parte Uzell* [1996] JPL 837, the personal circumstances of the appellants in these latter respects are considerations that I have taken into account.
15. The appellants have also provided a petition signed by the occupiers of several properties in Monega Road. In signing the petition, the occupiers of those properties have confirmed their support for the retention of the security cameras and associated mountings, indicating also that the cameras have assisted them in dealing with crime and that the installation of the cameras has not caused them any nuisance. I have also taken into account the support for the security cameras evidenced by this petition, including that the sense of safety and security provided by these cameras accords with Policy SP3 of the Core Strategy in that respect.
16. The news articles, personal circumstances of the appellant and the support from other residents in Monega Road all weigh in favour of granting planning permission for the security cameras and associated mountings. However, there is a balance to be struck between the need for security and the harm caused to the character of the host property. Although the Metropolitan Police advocate the use of two cameras to cover the front elevation and the public highway in front of a property, in my view, by reason of their size, design and prominence, the security cameras and associated mountings subject to the enforcement notice fail to strike the right balance. I am therefore not convinced that the benefits to the appellants and other residents of Monega Road resulting from the installation of the security cameras and associated mountings outweigh the harm to the character of the host property, or that a less intrusive and harmful method of achieving the required security cannot be found.

Conclusion on the ground (a) appeal

17. I find that the two canopies subject to the enforcement notice are contrary to policies in the development plan and that there are no material considerations of sufficient weight to indicate that the deemed planning application should be determined otherwise than in accordance with it. I therefore conclude that planning permission ought not to be granted.
18. Accordingly, the appeal on ground (a) fails.

Conclusion

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

Formal Decision

20. It is directed that the notice be corrected by deleting the words "extended" in paragraph 3.1 and by deleting the word "extending" in paragraph 5.1. Subject to those corrections, the appeals are dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Paul Freer

INSPECTOR