

Appeal Decision

Site visit made on 26 January 2017

by A U Ghafoor BSc (Hons) MA MRTPI

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

Decision date: 23 February 2017

Appeal Ref: APP/T5150/C/16/3154993

18 Vincent Gardens, London NW2 7RP

- 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 Shinjun Lui against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice, numbered E/15/0496, was issued on 13 June 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a porch to the front, an outbuilding in the rear garden and a single-storey infill conservatory.
 - The requirements of the notice are to:
 - (1) Demolish the unauthorised porch to the front of the premises and remove all items, debris and materials arising from this demolition and associated with the development from the premises.
 - (2) Demolish the outbuilding to the rear of the premises and remove all items, debris and materials arising from this demolition and associated with the development from the premises.
 - (3) Demolish the unauthorised infill conservatory extension to the rear of the premises and remove all items, debris and materials arising from this demolition and associated with the unauthorised development from the premises.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a porch to the front, an outbuilding in the rear garden and a single-storey infill conservatory on land at 18 Vincent Gardens, London NW2 7RP referred to in the notice, subject to the following conditions:
 - 1) The outbuilding in the rear garden of the premises hereby permitted shall not be occupied at any time other than for purposes incidental to the residential use of the dwelling known as 18 Vincent Gardens, London NW2 7RP.

Ground (a)

2. The main issues are as follows: (1) The impact of the development upon the character and appearance of the host building and that of the locality (2) the effect of the infill conservatory upon occupiers of no. 16 Vincent Gardens, having regard to outlook.

Character and appearance

3. No. 18 is a semi-detached dwelling located within a suburban residential area. The dwelling is similar in architectural style to its neighbours exhibiting bow window projections. A pitched roof porch has been erected on the front elevation to the property; 3.3 m in overall height, 2.65 m wide and 1.1 m deep. Given slight difference in floor level, the stairs leading into the porch add a further 1.85 m to the total depth. I am quite satisfied that the design of the porch complements the simple architectural style of the host building. The materials utilised reflect those used in the outer elevations. The porch does not have a significant adverse visual effect in the street scene given its height and scale.
4. The single-storey infill conservatory is a flat roof structure that is 2.35 m wide, 4.9 m deep and 2.5 m in height; I disagree with the assessment that it is an unduly large addition. This is because of its design and external appearance. Cumulatively, the infill development causes no visual harm to the appearance of the host building or street scene, because of its limited scale and size.
5. The outbuilding is 2.35 m in height to eaves and 2.5 m to the top of the flat roof, 6.5 m wide and a depth of 5.2 m. The outbuilding has been built within 2m of the boundary. No. 18 is set in a spacious plot and outbuilding's size does not dominate this private amenity space. It is seen as a domestic adjunct because of its scale. Additionally, the settlement pattern includes domestic scale structures in rear gardens and this outbuilding has no adverse visual impact upon the character of locality, because of its rearward location and position.
6. Although there is no firm evidence of the outbuilding's use as a self-contained dwelling during the period leading up to the issue of the notice, it contained a kitchen and bathroom at the date of the notice. Given the phenomena locally known as *beds-in-sheds*, the Council is concerned that the outbuilding could be used for primary residential purposes. Mr Lui appears to have responded by physically removing these facilities before I even got to the site.
7. Evidently, the notice does not allege the erection of a dwelling nor material a change of use. Instead, it targets operational development (erection of an outbuilding) and, provided a suitably worded condition can be imposed controlling its future use, an alternative is to grant planning permission for the erection of an outbuilding subject to a condition specifying incidental or ancillary use. This is a reasonable outcome because it addresses the planning issues but at less cost and disruption.
8. Pulling all of the above points together, I find that the erection of the development resulting in the erection of a porch to the front, single-storey infill conservatory and outbuilding does not have a materially harmful impact upon the character and appearance of the host dwelling and that of the locality. Accordingly, subject to suitably worded condition, it complies with main aims and objectives of policy DMP1 of the Council's Development Management Policies (DMP), Core Strategy policy CP17, and supplementary planning guidance (SPG) No.5 – *Altering and extending your home*.

Living conditions

9. This matter relates to the single-storey infill conservatory only. The Council say that the development results in loss of daylight and it has an overbearing effect. For the following reasons, I profoundly disagree. Given orientation, the development causes no loss of daylight from reaching the adjoining property.

10. Additionally, the distance between the infill conservatory and the boundary is said to be 1.3 m at the widest point, and 0.8 m at its narrowest. There is a physical barrier that defines the plot and sufficient gap and distance. When seen from no 16, the flat roof single-storey infill conservatory is unlikely to have an over-dominant visual impact, because of its reward location and position. It is seen as a subordinate structure and its dimensions result in an addition that is limited in scale. Its elevations are partly glazed.
11. I conclude that the development has no material effect upon the living conditions of the occupiers of no. 16. Accordingly, the development complies with policy DMP1 of the DMP and guidance found in the SPG.

Conditions

12. The porch, infill conservatory and outbuilding already exist and there is no need to impose commencement condition. There are sound planning reasons as to why the creation of an additional dwelling, or the use of the building for some non-ancillary purpose, is unacceptable. As the outbuilding is physically separate from the main dwelling, it would be necessary to impose a planning condition so that the building can only be used incidental to the main dwelling house.

Conclusion

13. For all of the above reasons and having regard to all other matters, my conclusion is that the appeal should succeed on ground (a) and planning permission will be granted subject to conditions. Consequently, I do not need to consider the appeal on ground (f).

A U Ghafoor

Inspector