
Appeal Decision

Site visit made on 19 May 2017

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

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

Decision date: 15 June 2017

Appeal Ref : APP/C5690/C/16/3153933

Land at 50 Randlesdown Road, London, SE6 3BT.

- 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 Ali Hassan against an enforcement notice issued by the Council of the London Borough of Lewisham.
- The notice was issued on 24 May 2016.
- The breach of planning control as alleged in the notice is without planning permission, the enlargement and conversion of a garage to create a new building used for residential purposes.
- The requirements of the notice are 1. cease the use of the building as a residential building; 2. remove the building and 3. remove all materials, debris, waste and equipment resulting from compliance with requirements 1-2 above.
- 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 (g) of the Town and Country Planning Act 1990 as amended.

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

Ground (a) appeal and deemed application

Main Issues

1. I consider that the main issues in the determination of this appeal are the effect of the development on (i) the character and appearance of the area and (ii) the living conditions of current and future occupiers of the ground floor flat at no 50 with particular regard to outlook and privacy and (iii) the living conditions of current and future occupiers of the outbuilding with particular regard to privacy, outlook and standard of accommodation.

Character and appearance

2. No 50 Randlesdown Road is an end of terrace three storey property within a local shopping parade comprising a commercial unit and residential accommodation, including a ground floor flat at the rear. The appeal site comprises a single storey outbuilding located at the rear of No. 50. Its principal elevation containing a window and front door sits close to the boundary which abuts Brookehowse Road.
3. The development plan (including the London Plan and Core Strategy for Lewisham (the Core Strategy) and Development Management Local Plan (the Local Plan)) emphasises the importance of design that respects its

surroundings and safeguards basic amenity standards. Policy 33 of the Local Plan provides that development within street frontages and on street corners will be permitted where certain specified criteria are met. These criteria include where development makes a high quality positive contribution to the area and respects the character, proportions and spacing of existing housing.

4. The outbuilding covers the majority of the space at the rear of no 50. It is in close proximity to the boundaries of the site and the rear of no 50. By virtue of its scale and position it dominates its setting. It does not respect the setting of no 50 and there is little open space retained between it and the edges of the site. The unauthorised development has created a cramped appearance on a relatively prominent corner location. It is visible from the highway and out of keeping with the relatively open garden settings of properties in the locality. It does not make a high quality positive contribution to the area.
5. I conclude that the outbuilding causes undue harm to the character and appearance of the area and does not accord with the development plan, including policy 33 of the Local Plan. I have considered whether conditions could overcome the identified harm. I have taken into account the Planning Practice Guidance but no conditions would overcome the identified harm.

Living conditions

6. Policy 33 of the Local Plan emphasises the importance of development resulting in no significant overlooking and providing adequate privacy.
7. The rear facing window of the ground floor flat at No 50 faces the outbuilding. The separation distance is minimal and thereby creates an outlook for the occupiers of the flat that is not in keeping with its garden setting. The outbuilding has an overbearing and oppressive impact on the living conditions of occupiers of the flat. The location of the front door to the outbuilding so close to the window of a habitable room also adversely impacts on the privacy of occupiers.
8. The living conditions of occupiers of the outbuilding are also adversely affected by the close proximity to the ground floor flat. The restricted nature of the space between the buildings creates a poor outlook and loss of privacy.
9. The accommodation within the outbuilding is cramped and fails to provide adequate space for day to day living for current and future occupiers of the outbuilding. Storage space is limited and there is a lack of circulation space. I consider the standard of accommodation to be poor. The Appellant asserts that the development accords with national standards but provides no evidence and nothing to counter the Council's measurements which support the contrary conclusion. From the evidence before me I conclude that the standard of accommodation is poor and adversely affects the living conditions of current and future occupiers of the outbuilding.
10. I conclude that the development causes undue harm to the living conditions of (i) the occupiers of the ground floor flat at No 50 with particular regard to outlook and privacy and (ii) the occupiers of the outbuilding with particular regard to outlook, privacy and standards of accommodation. It does not accord with relevant development plan policies, including policy 33 of the Local Plan. Planning conditions could not overcome the identified harm.

Conclusion on ground (a) appeal and deemed application

11. In conclusion I find that the development causes harm to the character and appearance of the area and to the living conditions of occupiers of the ground floor flat at no 50 with particular regard to loss of outlook and privacy and the occupiers of the outbuilding with regard to loss of outlook, privacy and accommodation standards. It is contrary to relevant policies in the development plan and planning permission should not be granted on the deemed application.

Ground (g) appeal

12. This ground of appeal is that the time to comply with the requirements falls short of what should reasonably be allowed. The time period for compliance in the notice is six months. The Appellant says that 11 months would be more appropriate to enable the occupant on a short term tenancy agreement to look for alternative accommodation but no supporting detail is before me.
13. The rights of the occupiers of the outbuilding must be taken into account. Interference with the use of property must be proportionate taking into account the conflicting considerations of private and public interest. I consider a period of six months to be a reasonable time in which to expect the requirements of the notice to be undertaken. It strikes an appropriate balance between the conflicting public and private interests and is proportionate so as not to violate individuals' rights.
14. For the reasons given, I conclude that the ground (g) appeal fails.

Formal Decision

15. 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