The Planning Inspectorate

Appeal Decision

Site visit made on 4 July 2017

by Diane Fleming BA (Hons) MRTPI

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

Decision date: 13 July 2017

Appeal Ref: APP/W5780/C/17/3168458
120-122 Hampton Road, Ilford, London IG1 1PR

- 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 Palvinder Beesal against an enforcement notice issued by the Council of the London Borough of Redbridge.
- The enforcement notice was issued on 21 December 2016.
- The breach of planning control as alleged in the notice is without planning permission, the erection of an outbuilding measuring approximately 8.7m in depth, 12m in width and a height of 2.5m to eaves rising to a maximum of 3.9m to the pitched roof shown hatched blue on the plan attached to the notice.
- The requirements of the notice are (i) Remove the outbuilding to the rear of the property; or (ii) Build in accordance with approved planning consent 3117/15 by reducing the depth of the outbuilding to 6m as shown on drawing number A205 Sheet 5 (attached to the notice as appendix 1); and (iii) Remove from the land all resulting building materials and debris arising from compliance with step (i) or (ii) above leaving the land in a tidy condition.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (e) of the Town and Country Planning Act 1990 as amended.

Decision

1. It is directed that the enforcement notice be varied by the deletion of the words 'leaving the land in a tidy condition'. Subject to this variation the appeal is 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.

The ground (e) appeal

2. Under a ground (e) appeal the onus of proof is on the appellant to show that the notice has not been served as required by section 172 of the Town and Country Planning Act 1990 (the Act). Section 172(2) states that a copy of the enforcement notice shall be served on the owner and on the occupier of the land to which the notice relates.

3. The appellant submits that at a site visit carried out by the Council during the construction phase of the development no mention was made of the outbuilding not being in accordance with the approved plans. Furthermore, the Council did not seek to stop the work and did not send any warning letter prior to the issue of the enforcement notice. The Council have responded by providing details of site visits made in 2016 on 14 March, 15 August, 28

September and 28 November. However, these submissions do not relate to whether the notice was served as required by the Act.

4. I find the schedule attached to the notice setting out the names and addresses of those served with a copy of the notice shows that the Council complied with section 172 as Mr Beesal, one of the owners of the site, received a copy of the notice and subsequently lodged the appeal. I am therefore satisfied that the notice was correctly served and the appeal on ground (e) fails.

The ground (a) appeal and the deemed planning application

Main Issues

5. The main issues are the effect of the development on (i) the character and appearance of the host properties and the surrounding area; and (ii) the living conditions of the adjoining occupiers, having regard to outlook.

Reasons

Character and appearance

6. The appeal concerns two adjacent properties situated on the corner of Hampton Road and Woodlands Road. The surrounding area is predominantly residential in character and comprises a high density development of two storey terraced housing laid out in a grid pattern. Woodlands Road bisects a number of roads and there are very few properties that have a frontage on to it. Consequently some occupiers of houses on the corner of surrounding roads have erected flat roof garages at the end of their gardens with access onto Woodlands Road.

7. Despite these changes, and others to update doors and windows, the homogeneity of the area largely remains. Views of the expanses of rear gardens from bisecting roads such as Woodlands Road provide visual relief to the otherwise compact terraced development and this adds to the agreeable appearance of the neighbourhood.

8. The appellant has erected an outbuilding which is sited across the rear of both gardens at Nos 120 and 122 Hampton Road. It has a pitched tiled roof and red brick walls overlooking the rear of the properties at No 120-122 and Woodlands Road. The rear wall appears to be constructed in blockwork and the elevation adjacent to the neighbouring garden at No 124 Hampton Road has been rendered.

9. The end elevation of the outbuilding overlooking Woodlands Road has been built up to the back edge of the public footway. The outbuilding is also positioned more or less on the rear boundary of the site adjacent to a garage and is immediately adjacent to the boundary fence with No 124. There are windows in both end elevations as well as the elevation overlooking the remaining garden area. These serve a number of bedrooms, two bathrooms and a kitchen diner.

10. Planning permission was granted by the Council in October 2015 to demolish existing garages and erect an outbuilding to the rear of the appeal site. The approved plans show a smaller version of what has been built on site with fewer windows. The Council are concerned that what has been built is an intrusive addition to the street scene.

11. I find the scale of the outbuilding is at odds with the host buildings and the surrounding area. In particular, the depth of the building encroaches significantly into the remaining garden area. This harms the openness of the wider gardens area which it is important to maintain as it provides some relief to the long lines of terraced housing.

12. As the outbuilding occupies a sizeable proportion of the rear gardens, due to its depth, the remaining space between the rear walls of Nos 120-122 and the front elevation of the outbuilding is now little more than a courtyard. This is markedly different from nearby properties with outbuildings as they do not occupy the same depth of garden and they have much smaller footprints than that at the appeal site. Consequently the openness of the wider garden area is preserved.

13. In terms of the effect on the host buildings, No 120 is larger than others in the terrace, being a corner building, and has a long frontage to Woodlands Road. The size of the outbuilding with its increased depth and additional windows though has resulted in a prominent development that amounts to the creation of a new dwelling in terms of its size which detracts from the appearance of No 120 as a focal point in the area.

14. For these reasons I conclude that the development has an adverse effect on the character and appearance of the host properties and the surrounding area. The development therefore does not accord with either Strategic Policy 3 of the Council's Core Strategy (CS)[1] or Policy BD1 of the Council's Development Plan Document (DPD)[2]. These policies require all new buildings to be designed to a high standard that is compatible with and contributes to the distinctive character of an area with a scale and density appropriate to the locality. I give these policies weight as they are consistent with the National Planning Policy Framework (the Framework) requirement for good design.

Living conditions

15. The Council are concerned that the size of the outbuilding has affected the outlook from No 124 Hampton Road which has principal windows at ground and first floor level close to the shared boundary with No 122. These windows look onto a narrow rear garden that is already partially enclosed by a long rear extension at No 126. The appeal development, with its increased depth, position on the boundary and height, results in an unacceptable increased sense of enclosure for the occupiers of No 124 when previously their outlook was more open, whether viewed from within the house or the garden.

16. For these reasons I conclude that the development has an adverse effect on the living conditions of the occupiers of the adjoining property, having regard to outlook. The development therefore does not accord with either Strategic Policy 3 of the CS or Policy BD1 of the DPD. These require new development to respect the amenity of adjoining properties. I give these policies weight as they are consistent with the Framework's requirement for a good standard of amenity for all existing and future occupants of land and building.

17. It follows from my conclusion on the main issues that the appeal on ground (a) fails and that planning permission will not be granted.

[1] London Borough of Redbridge Core Strategy adopted March 2008
[2] London Borough of Redbridge Borough Wide Primary Policies Development Plan Document adopted May 2008

18. I need to vary the requirements of the notice though, by directing that the phrase 'leaving the land in a tidy condition' be deleted. This is because the phrase is imprecise and the recipient of the notice must know exactly what he must do to comply with the requirements of the notice.

Conclusion

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

D Fleming

INSPECTOR