



Appeal Decision

Site visit made on 28 March 2018

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 April 2018

Appeal Ref: APP/T5150/C/17/3181711

20A Staverton Road, London NW2 5HL

- 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 Atef Sarian against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice was issued on 6 July 2017 under ref. E/16/0180.
 - The breach of planning control as alleged in the notice is: *"Without planning permission, the erection of an outbuilding in the rear garden of the premises."*
 - The requirements of the notice are set out as follows:
"STEP 1 Demolish the unauthorised outbuilding and remove all associated items, debris and materials arising from this demolition from the premises
OR
STEP 2 Alter the unauthorised development so that it accords with planning permission reference 16/4651 dated 01/03/2017 and the approved plans and conditions associated with the grant of this planning permission."
 - The period for compliance with these requirements is one month.
 - The appeal is proceeding on the ground set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended falls to be considered.
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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 an outbuilding in the rear garden of the premises at 20A Staverton Road, London NW2 5HL, as referred to in the notice, subject to the following condition:

(1) The use of the outbuilding shall be limited to purposes incidental to the enjoyment of the flat, 20A Staverton Road, as such. No commercial use, business or industry shall be carried out therein, nor shall this outbuilding be used for primary living accommodation such as a bedroom, kitchen or shower room/bathroom/toilet. It shall not be used as a separate flat and shall not be sold, let, occupied or used for storage separately from 20A Staverton Road.

Background and matters of clarification

2. No. 20 Staverton Road is a sizeable two-storey detached residential

property with further rooms in the roof space. It is divided up into four flats with No. 20A being the ground floor flat.

3. As referred to in step 2 of the enforcement notice, there is an extant planning permission for "*Retrospective application for erection of and alterations to roof of a single storey outbuilding in rear garden of ground floor flat*" (ref. 16/4651). There appears to be no dispute that the outbuilding's footprint (7.5 m by 4.0 m) and location (wholly within the rearmost quarter of the back garden) accord with this planning permission.
4. The Council's main concern is with the size and height of the outbuilding's pitched roof as built when compared with the virtually flat roof as approved. Measurements taken and agreed by the parties at the site visit revealed that the ridge of the pitched roof is 3.3 m high, whilst the line of the eaves at the front reaches 2.55 m high. The front of the near flat roof was approved at 2.55 m high (2.34 m high at the rear).
5. The Council's supplementary planning document Residential Extensions & Alterations SPD 2 was adopted on 15 January 2018. Section 2.10 deals with outbuildings. The parties were invited to comment on the implications SPD 2 may have for the appeal development. The response received from the appellant has been noted.

The appeal on ground (a) and the deemed planning application

6. The main issue is the effect of the development upon the character and appearance of the site and its surroundings, particularly as perceived by neighbouring occupiers in the outlook from the rear of their properties.
7. The residential properties in this frontage are laid out with large back gardens and for the most part these abut similar back gardens in Alverstone Road, giving a distinctive character to this suburban residential area. Domestic scale outbuildings are not an uncommon feature within the rear gardens hereabouts. There has been no suggestion made that the subject outbuilding can be viewed from any public vantage points.
8. SPD 2 states that: "*In certain circumstances, when a dual-pitched roof is proposed and the outbuilding would be at least 2 m from all neighbouring boundaries, then a ridge height of 4 m may be considered acceptable. The eaves of an outbuilding with any type of pitched roof should not exceed 2.5 m in height.*"
9. Even though the outbuilding has a width of 7.5 m, no part of it comes within 2.0 m of any boundary. It is in fact 3.2 m away from the garden boundary with No. 18 Staverton Road. The ridge height of its dual-pitched roof is well under the guideline figure in SPD 2 and this more than compensates for the eaves being fractionally above 2.5 m. The approved eaves height at the front was 2.55 m above ground level in any event.

10. With a modest pitched roof of limited height, the outbuilding did not strike me as being out of scale in relation to the size of the existing residential building or to the garden space that remains within this large back garden. There is respect for the area's distinctive suburban character in accordance with Policy CP 17 of Brent's Core Strategy. The roof design has allowed for the use of small brown concrete tiles which are similar in appearance to the tiles used on the main building. The outbuilding's appearance is more pleasing than if the appellant had implemented the near flat roof scheme as approved. The structure complements the locality thus respecting Policy DMP 1 of Brent's Development Management Policies (DMP).
11. The Council consulted the occupiers of neighbouring residential properties about this appeal in November 2017. No objections have been lodged in response to those notifications. This does not surprise me. The outbuilding does not appear dominant, overbearing or obtrusive in views from the rear-facing windows or back gardens of any neighbouring properties. Its visual impact is mitigated satisfactorily by a combination of its limited height, the generous separation distances from nearby residential properties, its siting away from the site boundaries at the lowest end of the back garden, the vegetation close to the rear and side boundaries and the presence of boundary fencing. High levels of internal and external amenity are maintained again respecting Policy DMP 1 of the DMP.
12. Whilst I am aware that a new pitched roof was allowed on an outbuilding at the rear of No. 71 Staverton Road (ref. 12/3064), I have based my decision on the circumstances that arise in connection with the subject outbuilding and the characteristics of its site and surroundings.
13. To sum up on the main issue, I find that the outbuilding does not have a materially harmful effect upon the character and appearance of the site and its surroundings, particularly as perceived by neighbouring occupiers in the outlook from the rear of their properties. Accordingly, and as there is every reason to believe that a high quality design response and good neighbourliness have been achieved for this outbuilding, I find that the development complies with the development plan policies to which the Council has referred and with the relevant national planning advice in the National Planning Policy Framework on achieving good design and amenity.
14. Having regard to the above and all other matters raised, I conclude that the appeal on ground (a) and the deemed planning application should succeed. It has not been suggested that any planning conditions should be imposed in this event but it should not come as a surprise to the parties that I have imposed the condition set out in paragraph 1 for the following reasons: (1) to be consistent with SPD 2 and condition 4 of planning permission ref. 16/4651, (2) to ensure that the outbuilding remains in appropriate use in terms of its impact on residential amenities and (3) because other uses may raise different planning considerations.

Andrew Dale INSPECTOR