
Appeal Decision

Site visit made on 9 May 2018

by D A Hainsworth LL.B(Hons) FRSA Solicitor

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

Decision date: 21 May 2018

Appeal Ref: APP/R5510/C/17/3181760

13 Warner Close, Harlington, Hayes, Middlesex UB3 5LG

- The appeal is made by Mohammed Irfan Quadeer under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: ENF/1087/15) issued by the Council of the London Borough of Hillingdon on 17 July 2017.
 - The breach of planning control alleged in the notice is "the erection of an outbuilding".
 - The requirements of the notice are as follows: -
 - “(i) Demolish the outbuilding (shown hatched in blue on the attached site plan).
 - (ii) Remove from the land all debris, waste, building materials, plant equipment and machinery resulting from the demolition works.”
 - The period for compliance with these requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g).
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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 be made by section 177(5) of the Town and Country Planning Act 1990 for the erection of an outbuilding at 13 Warner Close, Harlington, Hayes, Middlesex UB3 5LG, subject to the condition that the outbuilding shall only be used for purposes incidental to the enjoyment of the house, 13 Warner Close, as such.

Reasons for the decision

Ground (a)

2. The previous appeal was a lawful development certificate appeal, where there was no planning application to be determined and the planning merits issues concerning the outbuilding could not be considered. In the current appeal there is a deemed planning application before me and an appeal on ground (a), in which the appellant seeks planning permission for the erection of the outbuilding. The main planning issues to be considered in deciding whether permission should be granted concern the impact the outbuilding has on its surroundings and the use to which the outbuilding will be put.
3. The Council gave two planning reasons for issuing the notice. The first is as follows:-

“The outbuilding, by reason of its size, scale, and excessive footprint, results in a visually obtrusive form of development, which is out of character with the pattern of prevailing development in the area to the

detriment of the character and appearance of the area.” Reference is then made to Policy BE1 of the Hillingdon Local Plan: Part One – Strategic Policies and to Policies BE13, BE15 and BE19 of the Local Plan: Part Two – Saved Unitary Development Plan Policies, and to the Supplementary Planning Document HDAS: Residential Extensions.

The second is as follows:-

“The outbuilding by virtue of its size, scale, layout and the existence of an independent access, would be tantamount to the creation of a self contained separate dwelling, where such a dwelling would not be acceptable due to its impact on the character and appearance of the host dwelling and the wider locality, the need for additional parking and amenity space and issues relating to impact on the existing and adjoining dwellings.” Reference is then made to Policies AM14, BE13, BE15, BE19, BE20, BE21, BE23 and BE24 of the Local Plan: Part Two and to the Supplementary Planning Document HDAS: Residential Extensions.

4. The facts do not support the first reason for issuing the notice. As is clear from the plan attached to the enforcement notice, and was confirmed by my visit, all except one of the houses in the row Nos 1-21 on this side of Warner Close have domestic outbuildings in similar positions to the appellant’s outbuilding (the exception being No 5). Most of them are large, two of them cover more ground area than the appellant’s outbuilding and some of them are higher than the appellant’s. The appellant’s outbuilding is fully in keeping with the pattern of development here and with the character and appearance of its surroundings.
5. As to the second reason for issuing the notice, to refuse planning permission for the outbuilding on the basis that it might be used for an unacceptable purpose in the future would be uncalled-for. The planning system regulates such concerns. A material change in the authorised use of the outbuilding to another use will require a new planning permission, which could be withheld if there were sufficient grounds for doing so. In addition, a condition can be imposed if planning permission is granted for the outbuilding that will restrict the use of the outbuilding to its current use for purposes incidental to the enjoyment of the house.
6. Moreover, the facts do not support the second reason. There is no sign that the outbuilding was built with the intention of creating a separate dwelling. It abuts the rear access track but, unlike most of the outbuildings here, it has been built without an access to it, and it has no openings in any of its walls except the wall facing the house. There is evidence that it was for a time used as an office in connection with the appellant’s business, but that use has ceased and the kitchen facilities supporting it have been removed.
7. I do not consider the outbuilding to be in conflict with any of the planning policies referred to above. It complies with Policy BE1, criterion 9, since it is not inappropriate garden development in this location and it complies with Policies BE13, BE19, BE20, BE21, BE23 and BE24 because it harmonises with its surroundings, does not have an adverse impact on neighbours’ amenities and retains sufficient garden space for the house. The other policies referred to, Policies AM14 and BE15, are not relevant in the issues in this appeal. The outbuilding also meets the detailed criteria in Section 9 Detached Outbuildings

of the Supplementary Planning Document HDAS: Residential Extensions, apart from its not having a 0.5m set-in from its boundaries: this set-in is not called for in this instance, since there are other outbuildings next to the boundaries on both sides of the outbuilding and most of the outbuildings here fill the full widths of their plots.

8. For the above reasons, I have concluded that planning permission should be granted for the outbuilding. The appeal has therefore succeeded on ground (a). The Council have suggested that three planning conditions should be imposed in this event. I do not consider that any of them are necessary: the first is not required in relation to buildings that already exist and the second and third would introduce additional controls over noise and alterations that are not required in relation to this outbuilding. I have, however, imposed the condition referred to in paragraph 5 above, to protect residential amenities.

Grounds (f) and (g)

9. The enforcement notice has been quashed as a result of the success of the appeal on ground (a). Grounds (f) and (g) no longer fall to be considered.

D.A.Hainsworth

INSPECTOR