
Appeal Decisions

Site visit made on 21 September 2019

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2019

Appeals Ref: APP/C5690/C/19/3220883, 3220884, 3220886 Land at 28 Birkhall Road, London SE6 1TE

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mrs Serena Atkins, Mr Christian Bibow and Mr Alexander Atkins against an enforcement notice issued by the Council of the London Borough of Lewisham.
 - The enforcement notice was issued on 6 December 2018.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a timber shed in the front garden area of the land.
 - The requirements of the notice are:
 1. Remove the timber shed from the front garden area of the land.
 2. Remove all materials, debris, waste and equipment resulting from compliance with requirement 1 above from the land and its premises.
 - The period for compliance with the requirements is 28 days.
 - The appeal by Mrs Atkins, Appeal A ref 3220883, is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
 - The appeals by Mr Bibow, Appeal B ref 3220884 and Mr Atkins, Appeal C ref 3220886, are proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeals on ground (a) and the applications for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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APPEAL A REF APP/C5690/C/19/3220883

Reasons: Appeal on ground (a)

1. The main issue is the effect on the character and appearance of the host property and the residential street.
2. The Council's Core Strategy (CS) in Policy 15 requires development to be of high quality design, sensitive to the local context and to respond to local character. Similar principles are set out in Policy 30 of the Development Management (DM) Local Plan. Supplementary Planning Guidance on Extensions and Alterations (the SPD) includes guidance on cycle storage and other considerations affecting front gardens, such as parking and refuse storage.
3. 28 Birkhall Road is a two storey terrace house, with embellishments to the front window bays and front door. The house is similar in scale, proportions and architectural detail to the neighbouring houses in the terrace block. The timber shed is a small building of simple shape and design with no particular

features of note. Its stated purpose is for bicycle storage. The shed has been erected in a corner of the front garden close to the front and side boundaries. The siting maintains space between the structure and the front of the dwelling.

4. Birkhall Road is fronted by short terraces of dwellings. The blocks of terrace houses, while similar in scale, display diverse details in the architectural treatment of the elevations. The front gardens are of limited depth and have a variety of boundary treatments. Many of the gardens are hard paved to provide off-street parking and bin storage is commonplace. Overall the appearance of the residential street does not show a high degree of uniformity. Birkhall Road is not in a conservation area.
5. The SPD encourages cycling. Cycle storage that is well designed and sited is seen as one of the best ways to support this activity. The timber shed provides covered storage that is secure and convenient. Its appearance is neutral and functional rather than attractive. The shed is sited close to the entrance of the property, it does not obstruct visibility or have an adverse effect on neighbour amenity. The Council considered that the structure would be better placed at the rear of the site. However, because number 28 is a mid-terrace property, access to a cycle store at the back of the house would not be convenient. The SPD only rules out garden sheds in front gardens in conservation areas. The shed is a freestanding structure and although it partly obscures views of the ground floor front bay the physical form of the dwelling is unchanged. Its relationship to the dwelling is little different to that of a parked vehicle, a feature which is characteristic at many of the nearby properties.
6. The tree within the front garden has a dense low canopy and is a dominant and distinctive feature. When in full leaf it almost obscures and hence substantially reduces the visibility of the shed. For several months in the year there would be a limited amount of foliage and the shed would be much more apparent. However, the use of timber and its small size, together with the parked vehicles, other domestic paraphernalia and boundary hedging at nearby properties would all contribute to reducing the visibility of the shed within the street scene. In its context the shed does not look out of place and even when the garden tree is not in leaf the shed would not cause significant visual harm.
7. The erection of a replacement boundary wall, as proposed by the appellant, would overcome an objection of the Council. I agree that a low wall along the front boundary would ensure appropriate enclosure to the plot, visually contain the shed within the property and enhance the appearance overall. This feature can be secured by planning condition. In conjunction with the proposed and existing walls, the appellant also proposes and has carried out some hedge planting to help soften the appearance of the structure. I do not regard planting as essential to the acceptability of the shed and therefore it is not necessary or reasonable to require details by condition. Garden planting is matter for the appellant.
8. Most representations are supportive of the cycle shed, in part because it encourages cycling over the use of a car. A concern has been expressed that to allow the shed would 'open the flood gates' for similar structures in the residential area. However, the Council has policies and planning guidance in place to assess development on its individual merits.
9. I conclude the shed at issue in this appeal complies with planning requirements set out in CS Policy 15, DM Policy 30 and the guidance in the SPD. There are

no other considerations of sufficient weight to indicate a decision other than in accordance with the development plan. The erection of a front boundary wall will be required by planning condition, based on the details provided by the appellant.

10. For the reasons given above the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (f) does not therefore need to be considered.

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11. 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 timber shed in the front garden area on land at 28 Birkhall Road, London SE6 1TE referred to in the notice, subject to the following condition:

- 1) A brick wall shall be erected along the front boundary of the property within 6 months of the date of this decision. The height of the wall shall not exceed one metre above ground level and the wall shall be built of bricks to match the materials of the existing brick walls to the front garden of the site. The wall, once erected, shall be retained thereafter.

APPEAL B Ref APP/C5690/C/19/3220884 and APPEAL C Ref APP/C5690/C/19/3220886

12. Appeals B and C are on a single ground (f) that the steps to comply with the requirements of the notice are excessive. Because Appeal A has succeeded on ground (a) and the deemed planning application is approved, the enforcement notice will be quashed. It follows that Appeals B and C on ground (f) do not fall to be considered.

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13. I take no further action in respect of Appeal B and Appeal C.

Diane Lewis

Inspector