



Appeal Decision

Site visit made on 19 November 2019

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 29 November 2019

Appeal Ref: APP/M5450/W/19/3227043

7 Holland Close, Stanmore, Middlesex HA7 3AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Axel Nares against the decision of the Council of the London Borough of Harrow.
- The application Ref P/5260/18, dated 21 November 2018, was approved on 1 February 2019 and planning permission was granted subject to conditions.
- The development permitted is single storey outbuilding in rear garden.
- The condition in dispute is No 1 which states that:
The proposal hereby granted permission shall be implemented in full accordance with the approved plans within three months of the date of this permission. Failure to comply within this timeframe will result in further enforcement action.
- The reason given for the condition is:
For the avoidance of doubt and in the interests of proper planning.

Decision

1. The appeal is allowed and the planning permission Ref P/5260/18 for a single storey outbuilding in rear garden at 7 Holland Close, Stanmore, Middlesex HA7 3AN granted on 21 November 2018 by the Council of the London Borough of Harrow, is varied by deleting condition 1 and substituting for it the following condition:
 - 1) The proposal hereby granted permission shall be implemented in full accordance with the approved plans within six months of the date of this permission.

Background and Main Issue

2. An application for planning permission for the demolition of a detached garage and the erection of an outbuilding¹ was previously refused by the Council and an appeal against that refusal subsequently lodged². The Inspector noted at the time of the appeal that the garage had been demolished and the outbuilding erected. The appeal was dismissed on the grounds that the building's bulkiness, dominating nature and closeness to the boundary would harm the living conditions of occupiers of 9 Holland Close.
3. A second application, now the subject of this appeal, was submitted to retain the outbuilding, albeit with modifications to its design, following its earlier refusal and subsequent dismissal at appeal. The application was approved and permission granted, subject to a number of conditions. Of these, condition No. 1 required the approved scheme to be implemented in full within three months

¹ LPA Ref No: P/4938/16

² APP/M5450/D/17/3169431

of the date of the permission. This, the appellant argues, left an unreasonably short period of time to undertake the required works.

4. The National Planning Policy Framework (the Framework) states that planning conditions should be kept to a minimum and only imposed where they satisfy six tests³. The main issue is therefore whether the specified period for carrying out the required works is reasonable.

Reasons

5. The disputed condition required the approved works of alteration to be carried out within three months of the date of approval. As the Council's decision was issued on 1 February 2019, the works were required to be completed before 1 May 2019.
6. The appellant's appeal appears to be predicated on two main factors; that the three month period covered the late winter and early spring period when prevailing weather conditions would be less likely to be conducive to the works being carried out, and that the appellant would be out of the country on pre-arranged and pre-booked travels. As a consequence, the appellant argued, the period for the works to be procured and carried out would be significantly condensed.
7. However, as it now turns out, the appellant has had a considerably longer period within which to procure and carry out the required works but, as was evident at the time of my visit to the site, has not done so. The building was, therefore, in place ostensibly in the form shown on Drwg No: 001 and the approved works had not been carried out.
8. Whilst I have some sympathy with the appellant's grounds of appeal regarding pre-booked travel commitments I have not been advised that those grounds continue exist, or that other future (but committed) travel plans would impair the appellant's ability to carry out the required works within a reasonable timescale. However, the works for which planning permission was approved by the Council are not insubstantial.
9. The roof structure of the building would be fundamentally and substantially altered and the eaves level of the building reduced by a considerable amount along the building's southeast elevation. The building is not of masonry construction, but the works required would nonetheless be disruptive and intrusive. The appellant's desire to ensure that these works may be properly planned and, equally significantly, carried out at a time of the year conducive to such works is noted and understandable.
10. A longer, albeit non-specific, period of time is sought by the appellant to allow these works to be carried out. The appellant makes reference to 'normal timelines' for planning approvals being three years, but this period sets the time within which the development must begin. In the current instance however, the proposed works are intended to mitigate the impact of an existing building which, in its present form, was considered to be harmful to the living conditions of occupiers of the neighbouring property. A shorter time period than three years is therefore both reasonable and necessary to ensure that that harm is not continued for an extended period of time.

³ Paragraph 55

11. However, whilst I consider the overall aim of the disputed condition to be both reasonable and necessary, to retain the same time period as that imposed by the Council would leave the appellant facing a similar dilemma as that which prompted, in part at least, the appeal against the disputed condition; the disruptive works being carried out at a less than conducive time of the year in terms of prevailing weather conditions.
12. I have not been provided with any evidence or further justification to substantiate the approach to, or reasoning for, the three month period given in the disputed condition by the Council. In the absence of such, I find in favour of the appellant's argument for wishing to, amongst other factors, carry out the works during more favourable, if not guaranteed, weather conditions. However, a three year period as hinted at by the appellant would not address the identified harm in an effective or timely manner. Nor would a three month period address the appellant's reasonable request. Without evidence to confirm the intrusion of pre-arranged travel plans in the intervening period, a six month time period would allow the appellant a reasonable period in which to procure the works and make arrangements for the works to be undertaken in more favourable conditions which ensuring that the harm arising from the building in its existing form is addressed.
13. For the reasons I have set out, I allow the appeal and remove the disputed condition, replacing that removed with a condition setting out a six month time period for the carrying out of the required works. I have also omitted reference to the possible consequences of failure to comply with the new condition as it does not fall to me to determine such matters within the scope of this appeal.

Conclusion

14. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be allowed and the planning permission granted by the Council varied in the manner set out above.

Graeme Robbie

INSPECTOR