



Appeal Decision

Site visit made on 12 November 2019

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2019

Appeal Ref: APP/M5450/C/18/3207811

Land at 126 College Hill Road, Harold Weald, Harrow HA3 7DA

- 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 Bhadresh Natubhai Patel against an enforcement notice issued by the Council of the London Borough of Harrow.
 - The enforcement notice was issued on 13 June 2018.
 - The breach of planning control as alleged in the notice is: Without planning permission, the construction of a single storey outbuilding in the rear garden of the Land and the change of use of the Land from use as a single dwellinghouse to use as two dwellinghouses.
 - The requirements of the notice are:
 1. Cease the use of the Land as more than one dwellinghouse.
 2. Demolish the outbuilding as shown hatched on the attached plan.
 3. Remove all materials associated with steps 1 and 2 from the Land.
 - The period for compliance with the requirements is 3 calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matter

2. At the site visit it became apparent that the appellant's first name is not correctly spelt on the appeal form. I have used the correct spelling, provided by the appellant at the site visit, in the heading above.

Application for Costs

3. An application for costs has been made by the London Borough of Harrow against Mr Bhadresh Natubhai Patel. This application is the subject of a separate Decision.

Reasons

The ground (a) appeal

4. The main issue in the ground (a) appeal is the effect of the development on the living conditions of occupiers of the land and neighbouring properties.

5. Evidence indicates the outbuilding has a floorspace of approximately 36 sqm and that 2 rooms within it have contained beds, at least one of which was a double bed. Policy DM 26 of the Harrow Council Development Management Policies 2013 (the DM Policies) and Policy 3.5 of the London Plan 2016 (as amended) (the London Plan) seek that specified minimum space standards are applied to dwellings.
6. Based on these space standards, a 2 bedroom 3 person dwelling should be at least 61 sqm and a 2 bedroom 4 person dwelling should be at least 70 sqm. Even applying the lower occupancy figure above, the outbuilding provides a substandard level of accommodation for occupants and is cramped. This is harmful to its occupants' living conditions.
7. Moreover, the size and location of the outbuilding, close to the side and rear property boundaries, compounds the cramped nature of the development and leaves no separate amenity space for its occupants or refuse storage. This is harmful to its occupants' living conditions and those of the neighbouring occupiers given the likely accumulation of refuse without proper storage.
8. Access to the outbuilding is via a gate to the side of the main dwelling at No 126. There is no physical separation between this route to the outbuilding and the existing back garden of No 126. As a result, overlooking occurs between occupants of the outbuilding and occupants of No 126, particularly at ground floor level as occupants of the outbuilding come and go from the outbuilding. This is harmful to the living conditions of occupants of both buildings.
9. I am satisfied that existing boundary treatments mean overlooking to the occupants of neighbouring land does not occur. In respect of the upper floor windows of neighbouring properties, I am satisfied these are far enough away from the outbuilding that overlooking does not occur. In addition, overlooking to these windows as a result of the access to the outbuilding is not significantly different from that which occurs from the normal use of a rear garden.
10. Use of the outbuilding as a dwelling is an intensification of the use of the land compared with the land's previous use as a single dwelling. An increase in comings and goings would occur as a result of the use of the outbuilding as a separate dwelling. There is no evidence to indicate the use of the land as 2 dwellings does not result in increased noise and disturbance for existing occupiers of the land or occupiers of neighbouring properties.
11. Considering all of the above points I conclude the development harms the living conditions of occupiers of the land and neighbouring properties. It does not comply with Policies DM 1 and DM 26 of the DM Policies, Policy CS1.B of the Harrow Core Strategy 2012, Policy 3.5 of the London Plan, the Residential Design Guide Supplementary Planning Document 2010 or the Garden Land Development Supplementary Planning Document 2013. Accordingly, the appeal on ground (a) fails.

The ground (f) appeal

12. The enforcement notice requires the use of the land as more than one dwellinghouse to cease as well as the demolition of the outbuilding. As such the purpose of the notice is to remedy the breach of planning control rather than only remedy any injury to amenity. The appellant wishes to retain the

outbuilding but allowing this via this appeal would not remedy the breach of planning control alleged and so the appeal on ground (f) fails.

Other Matters

13. The appellant has stated that at no point has the outbuilding been used as a self-contained dwelling. The evidence indicates the outbuilding has been occupied whilst equipped with all of the facilities necessary for independent day-to-day living. These include a toilet, washing facilities, sleeping accommodation and kitchen facilities. In light of this, use of the outbuilding has not been incidental to the enjoyment of the main dwellinghouse and the outbuilding should be assessed as a dwelling in light of the relevant development plan policies.
14. The evidence indicates the outbuilding has been vacated since the enforcement notice was served. In addition, the toilet and kitchen facilities have been removed as has its pitched roof. The appellant considers the outbuilding now complies with permitted development rights. However, the evidence indicates it was not constructed in accordance with those rights. Those rights do not apply retrospectively so the outbuilding cannot now be considered permitted development.

Conclusion

15. For the reasons given above I conclude that the appeal does not succeed. I uphold the enforcement notice and refuse to grant planning permission on the deemed application.

L Perkins

INSPECTOR