
Appeal Decision

Site visit made on 5 November 2019

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 January 2020

Appeal Ref: APP/J1535/C/19/3223126

Tender Trap, 86 Manor Road, Chigwell, Essex IG7 5PQ

- 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 D Sumal against an enforcement notice issued by Epping Forest District Council.
 - The enforcement notice, numbered BSS/EB/CM/995, was issued on 23 January 2019.
 - The breach of planning control as alleged in the notice is the unauthorised erection on the land of a 6 metre mast together with a mounted CCTV camera.
 - The requirements of the notice are to remove from the land the CCTV camera, and the mast that it is mounted on, together with all resulting debris.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in sections 174(2)(a) and (g) 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.
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Decision

1. It is directed that the enforcement notice be varied by:
 - Substituting '3 months' as the period of compliance.
2. Subject to the variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The ground (a) appeal and the deemed application

3. The ground of appeal is that planning permission should be granted.
4. My attention has been drawn to policies of the emerging Local Plan. However, I do not know to what extent there are unresolved objections to these policies which could therefore be amended or deleted. As such I give them only limited weight in my decision, and in any event, I have not found them determinative in this case.

Main Issue

5. The main issue is the effect of the development on the living conditions of the occupiers of 88 Manor Road, with regard to privacy.

Reasons

6. 86 Manor Road is a large detached house in a spacious plot, set within frontage development of similar properties, facing onto Manor Road. The mast with

CCTV cameras is located close to the side boundary of the rear garden, set some distance away from the rear elevation of the house. The mast is positioned where it allows the cameras a wide view over the garden of the appeal property, with the rear garden of 88 Manor Road in the background.

7. Due to the height and position of the mast and cameras, they are clearly visible from a patio area to the rear of No 88, as well as an area towards the end of the garden, which is occupied by an outdoor swimming pool with a sitting out area around it. There are also oblique views of the mast from a first floor balcony and windows on the rear elevation serving a main bedroom to No 88.
8. While there is a level of mutual overlooking between the properties, which is to be expected in a built up area such as this, the mast allows a significant degree of overlooking of the rear elevation of No 88, as well as parts of the garden that would not otherwise be overlooked to the same extent. This is intrusive and harmful to the privacy of the occupiers.
9. The appellant states that steps have been taken to ensure that the scheme is not harmful to neighbours. In particular through the siting of the mast, the choice of camera lenses, and the programming of the cameras to avoid overlooking of neighbouring properties. Moreover, only the CCTV company is able to programme the cameras, and is fully aware of their responsibilities in terms of data protection. Be that as it may, I note that the Inspector, in dismissing an appeal against refusal of planning permission for the same or similar proposal¹, concluded that it would be difficult, if not impossible, to enforce a condition seeking to control the use of the cameras in this way and such a condition would not satisfy the tests for the use of conditions set out in the Planning Practice Guidance. I agree with this conclusion, as it would not be apparent to an observer whether a breach of the condition had occurred. Moreover, the occupiers of No 88 would have the perception of being overlooked, regardless of whether the view of the cameras was adequately controlled.
10. I have sympathy with the appellant's wish to ensure the health, safety and well-being of his family, but I have seen no evidence that there are no alternative means of providing security and reducing the fear of crime, that would be less harmful. The appellant refers to the use of planning conditions to control CCTV cameras elsewhere in the area, but I am not aware of the details of those cases and therefore I am not able to draw any direct comparisons.
11. For the reasons set out above, I therefore find that the development is harmful to the living conditions of the occupiers of 88 Manor Road, with regard to privacy. As a result, it is in conflict with Policy DBE9 of the Epping Forest District Local Plan 1998, insofar as it seeks to ensure that development does not result in a loss of amenity for neighbouring properties.

Other Matter

12. The neighbour at 90 Manor Road is concerned with the time taken to remove the mast following refusal of planning permission and the subsequent appeal being dismissed. However, the need to comply with the requirements of the notice does not apply while this appeal is being determined.

¹ Ref APP/J1535/D/19/3220510

Conclusion in relation to Ground (a)

13. For the reasons given above I conclude that the appeal on ground (a) should fail and the deemed application for planning permission should be refused.

Ground (g)

14. The appeal on ground (g) is that the period specified for compliance with the notice falls short of what is reasonable. The appellant states that the period should be extended to 6 months, to allow sufficient time to consider whether to remain in the property without the protection offered by the CCTV camera, or whether to relocate. I recognise that there is a balance between bringing the identified harm to an end without unnecessary delay, and the interests of the appellant. The works required to comply with the notice are not likely to be particularly lengthy, but it would be reasonable to allow some time for the appellant to consider their options. I therefore conclude that 3 months would be sufficient to allow this consideration to take place.
15. To this extent, the ground (g) appeal succeeds and I will vary the notice accordingly.

Conclusion

16. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation.

N Thomas

INSPECTOR