
Appeal Decisions

Site visit made on 6 January 2020

by Roy Curnow MA BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th January 2020

Appeal A Ref: APP/U1105/C/19/3225216

Appeal B Ref: APP/U1105/C/19/3225217

Flat 1, 31 Cranford Avenue, Exmouth, Devon EX8 2QA

- 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 appeals are made by Mr Luke Kent (Appeal A) and Mrs Gemma Kent (Appeal B) against an enforcement notice issued by East Devon District Council ('the notice').
 - The enforcement notice, numbered 18/F/0077, was issued on 11 March 2019.
 - The breach of planning control as alleged in the notice is without the benefit of planning permission, the construction of a single storey outbuilding on land forward of the principle elevation of the property fronting the highway in the approximate position as shown edged in blue on the attached plan B.
 - The requirements of the notice are to: (1) Permanently dismantle and remove the outbuilding from the land; and (2) Permanently remove all materials associated with compliance with step 1 above from the land and restore the land to its condition before the breach took place clear of such items [sic].
 - The period for compliance with the requirements is within two (2) months of this enforcement notice taking effect.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended.
 - Appeal B is 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 appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
-

Decision – Appeal A and Appeal B

1. Both appeals are dismissed and the enforcement notice is upheld. In Appeal A, planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal A on Ground (a)

2. Ground (a) is that planning permission should have been granted for the matters stated in the notice. From my inspection of the site and the parties' submissions, the main issue is effect that the development has on the character and appearance of the area.
3. The appeal site is characteristic of much of the development along Cranford Avenue and its environs. It consists of a large, detached building, here converted to flats, that is set back from the road within a generous garden. The property lies on the higher side of Cranford Avenue.

4. The frame of the outbuilding, including its roof, is largely complete and what appears to be a waterproof membrane has been applied to this. It is sited in the property's front garden, just behind the hedge that bounds the footway on Cranford Avenue. A significant portion of the outbuilding projects well above the hedge and is clearly seen from the road. As a result of its siting, adjacent to the property's entrance drive, its side elevation is also clearly seen from there.
5. Although its simple design is appropriate to the area, due to its siting and height, the outbuilding is prominent and visually intrusive in the street-scene. It is at odds with the prevailing open character of the front gardens of properties in the area.
6. The appellant has submitted photographs of other examples of outbuildings in front gardens. However, I was not given further information regarding their precise location nor whether planning permission had been granted for their erection. Although I saw a small number of outbuildings in the front gardens of properties in the area, including one of those in the submitted photographs, these were exceptions to the prevailing undeveloped form of front gardens in the area. As such, their presence does not lend sufficient weight to the development to outweigh the harm to the area's character and appearance that has been identified.
7. The use of cedar board cladding and the provision of a sedum roof would be acceptable in the area. However, the use of these materials would not mitigate the harm to the street scene that results from the outbuilding's erection.
8. I have taken note of the personal circumstances that have led to the outbuilding being erected without planning permission. They have, however, played very little part on my decision, which has been made on the planning merits of the case.
9. For the above reasons, I find that the development adversely affects the area's urban form and fails to respect its key characteristics, contrary to the terms of Policy D1 of the East Devon Local Plan, 2013-2031.

Appeals A and B on Ground (f)

10. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control. I have addressed the question of the appellant's use of cedar boarding and a sedum roof as part of the Ground (a) appeal decision, above. The appellants have not put forward any other argument on this ground. The requirements in the notice are not excessive but are proportionate to remedy the breach alleged in the notice. The appeal is therefore dismissed.

Conclusion

11. For the above reasons, and having taken all other matters into account, Appeal A and Appeal B are dismissed.

Roy Curnow
INSPECTOR