



Appeal Decision

Hearing Held on 11 February 2020

Site visit made on 11 February 2020

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2020

Appeal Ref: APP/T5150/C/19/3233044

1 Deanscroft Avenue, London NW9 8EP

- 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 Paul Maycock against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice was issued on 31 May 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a detached building in the rear garden of the premises.
 - The requirements of the notice are:
 - Step 1 Remove the building in the rear garden of the premises
 - Step 2 Remove all materials arising from that demolition and remove all materials associated with the unauthorised development from the premises.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. 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 detached building in the rear garden of the premises at 1 Deanscroft Avenue, London NW9 8EP as shown on the plan attached to the notice.

Procedural Matters

2. The Council's notification letter informing interested parties of the date of the hearing allowed for 12 days rather than 2 full-weeks' notice. This was discussed at the hearing. The lack of responses to either of the appeal notification letters as well as contact that the Council had with nearby residents shortly before the hearing, indicated that there was no reason to consider that any interested parties couldn't attend as a result. I therefore have no reason to believe that the interests of any party have been prejudiced by this.
3. Alternative wording for the second requirement of the notice was discussed. Whilst the wording could be improved upon, I do not consider that there is any error requiring correction.

The Appeal on ground (a) and the deemed planning application

Main issues

4. The first main issue is the effect of the detached building on the character and appearance of the appeal site and surrounding area. The second is the impact of the building on living conditions at neighbouring properties, in particular No 3 Deanscroft Avenue.

Character and appearance

5. The appeal site includes a semi-detached dwellinghouse in an area of similar properties in a typical sub-urban part of London the development of which, I was informed at the hearing, dates from the 1930s. The dwellings on this side of Deanscroft Avenue have regularly shaped rear gardens. The basic, original layout and pattern of the area is still noticeable.
6. The appeal site is adjoined to No 3 Deanscroft Avenue. No 3 and the other dwellings further to the west have driveways separating each pair of semi-detached dwellings. At the end of a number of those driveways, there are some large outbuildings that I could see from the appeal site which are positioned centrally within those plots. Many of these rear gardens, including the appeal site and No 3, also contain large outbuildings towards the ends of the respective gardens.
7. The appeal site, rather differently from this prevailing situation, is not adjoined to another dwelling on its eastern side because it is at the end of the row of dwellings. A track runs alongside the site which provides access to the rear of the appeal site as well as to the rear of the gardens of dwellings that front onto Church Lane. There are some very large garages with high, flat or gently sloping roofs in the rear gardens of the Church Lane dwellings that dominate the view along the track.
8. There is variety to the materials and design of the outbuildings in the area and also the rear extensions of the dwellings that I could see, along Deanscroft Avenue. The general character of the area has clearly evolved since the original construction of the sub-urban estate.
9. The outbuilding in this case is separated from the patio doors at the rear of the dwelling by a short length of deck which provides a level access between the buildings. The structure is of a simple design, constructed of brown-painted plywood and it has a flat roof. The roof-height is similar to that of the rear extension at the back of the dwelling. The building protrudes above the fence between the appeal site and No 3 and although I did not enter that adjoining garden, I could tell that it must be noticeable for a short distance along the boundary.
10. The steepness of the ground at the back of the dwelling means that there is a significant amount of under-build in order to provide the consistent floor level from the dwelling and into the building. The rear elevation does look stark as a consequence but the visual impact of that is mainly limited to where it can be seen from within the site. The side gate screens views of the lower part of the building from the track. The upper parts of the building can be seen above the boundary fence and the gates. However, the building does not look out of scale with the other outbuildings along the rear of Deanscroft Avenue. When seen from the access lane to the east, the upper parts of the building are

noticeable but this is in the context of the other large flat roofed outbuildings set out along the track. The finish of the materials does not look refined but in my opinion is also not out of place in the area where there is a significant variety to the external materials used for outbuildings and the basic timber construction of many of the boundary fences.

11. The Council's Supplementary Planning Document 2¹ (SPD2) encourages the construction of outbuildings only within the final fifth of the garden. Where buildings are within 2m of the boundary their height should normally be no more than 2.5m. Where a garden such as this which is greater than 100m², an outbuilding should normally be no more than 30m² in floor area. The building in this case breaches these aspects of SPD2. This is a material consideration and it was explained at the hearing that the guidance sits below both Core Strategy² (CS) and the Development Management Policies document³ (DMP). It was also explained that the Council has a general problem with the effects of outbuildings. However, in this case I consider the building in this location is seen in the context I have explained where it does not look out of place.
12. The building adequately protects the significant aspects of the distinctive suburban character of the area in my opinion. Given the eclectic mix of types, sizes and appearance of outbuildings and extensions at the rear of dwellings in this area, the development suitably complements the locality. The structure has been built close to but does not overhang the boundary with No 3. Maintenance of the building such as refreshing the paint close to the boundary may provide some difficulties, but I do not consider that this would unreasonably impact upon the appearance of the building in the longer term.
13. In relation to the first main issue, the detached outbuilding has an acceptable effect on the character and appearance of the appeal site and surrounding area. As such the development complies in these respects with CS Policy CP17 and DMP Policy DMP1. I do not consider that the building has a harmful impact upon the overall quality or visual attractiveness of the area and does not therefore conflict overall with the advice within the National Planning Policy Framework (the Framework).

Living conditions

14. The building protrudes above the boundary fence between the appeal site and No 3 Deanscroft Avenue as explained above. There is a substantial gap above the boundary fence at the immediate rear of the dwelling that continues to allow daylight into the amenity area at the back of No 3. The Council accepted at the hearing that the unauthorised building does not cause any unreasonable loss of light. The height and position of the building do not conform to the guidance within SPD2 and the structure increases the degree of enclosure of the garden of that property. However, this is for a short distance and I do not feel that this is over-bearing for the adjoining neighbours at No 3 and does not cause an unreasonably increased sense of enclosure of that rear garden. The size and proximity of the building to the adjoining garden does not have an overly imposing impact for the neighbouring occupiers.
15. The Council suggested at the hearing that the building is an eyesore that has

¹ Residential Extensions and Alterations Supplementary Planning Document 2, January 2018

² The London Borough of Brent Core Strategy, adopted July 2010

³ London Borough of Brent Development Management Policies, adopted November 2016

an impact upon the amenity of the adjoining property. Although the form of the building is basic, as I have explained in relation to the first main issue, I do not consider that it looks out of place here. Its size, position, form and materials in my opinion do not unreasonably impose upon the adjoining neighbour. The setting of the area is not affected such that the building fails to compliment the locality or the internal and external amenity of neighbouring dwellings.

16. In relation to the second main issue, the building does not have a harmful impact upon living conditions at neighbouring properties. The development also complies in these respects with CS Policy CP17 and DMP Policy DMP1 and the advice within the Framework.

Other matters

17. Given the above, it is unnecessary to consider in detail why the appellant needs the building or the public sector equality duty under the provisions of the Equality Act 2010. The merits of a personal condition were discussed as was a condition regarding a change of external materials. However, given my conclusions on the main issues, no planning conditions are necessary to impose.

Conclusion

18. For the reasons given above I conclude that the appeal should succeed on ground (a). I shall grant planning permission for the erection of a detached building in the rear garden of the premises as described in the notice. The appeal on grounds (f) and (g) do not therefore need to be considered.

A Harwood

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr R Pidgeon Dip TP, MRTPI, MCIM	Planning consultant, Lamont Planning Assocs
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Mr P Maycock	The appellant
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Mr J McAndrews	Friend of the appellant
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FOR THE LOCAL PLANNING AUTHORITY:

Mr T Rolt MRTPI	Planning Officer
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Mr R Coulter	Planning Officer
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