



Appeal Decision

Site visit made on 19 November 2019

by Timothy C King BA (Hons) MRTPI

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

Decision date: 23 March 2020

Appeal Ref: APP/A5270/C/18/3213391

52 Cavendish Avenue, West Ealing, London W13 0JQ

- 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 Ms L Kimpynevck against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The enforcement notice was issued on 31 August 2018.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of structures linking the main house to a rear outbuilding.
 - The requirements of the notice are to:
 - a) Demolish the structures linking the main house to the rear outbuilding as highlighted on the attached plan.
 - b) Remove any resulting materials and debris from the land following the demolition of the structures.
 - The period for compliance with the requirements is within three months from the date this notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to made under section 177(5) of the Act as amended falls to be considered.
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Summary of the Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Background and Matters concerning the Notice

2. The appellant has pointed out that the wording of the allegation is unclear. She says that, if the notice were to take effect she would not be clear what she would be required to demolish in order to comply with it. As I see it, the difficulty arises due to the notice's reference in its point 4(2) to "The linking structures and shed..." whereas its allegation and first requirement for compliance refer only to "structures." Also, paragraph 5.2 says that when the enforcement officer visited the site in July 2018 "a second shed had been constructed"
3. From my site visit I noted that a L-shaped link structure, at least part of which appears to be of chipboard construction, and is effectively a corridor, provides a step-down to a large pitched-roof outbuilding towards the northern boundary of the site. Given the layout of the development the "second shed" is not immediately apparent, but must refer to an offshoot room at the end of the first stretch of corridor. This has effectively been subsumed into the development, and is not now an identifiable entity in its own right.

4. The pitched-roof outbuilding was, according to the Council, built in approximately 2012, whereas the linkage and second shed was built subsequently in, or around, 2018, as indicated in the Council's representations. In this regard I see that no appeal has been brought by the appellant as to any considered immunity.
5. I note the Council's representations, whereby it is stated that "...both the shed and the linking structure can reasonably be described as structures", and that the notice effectively requires for the second shed's demolition. I agree and, in the interests of simplicity, I find that the purpose of the notice and its first requirement is clear. The "shed" and "structures", do not include the "rear outbuilding", as referred to in the notice. As such, the rear outbuilding is not touched by the notice and, in the circumstances, the shed and structures can and should be considered as a single entity. Accordingly, there is no need for me to correct either the notice's allegation or its requirements.

The Appeal on Ground (a) and the Deemed Planning Application

Main Issue

6. This is the effect of the development on the character and appearance of the area.

Reasons

7. From my inspection of the outbuilding complex it appears that the link structure accesses covered bedroom accommodation within the rear garden. However, the use is not addressed by the enforcement notice and is not, therefore, an issue in this instance.
8. The structure itself is makeshift in form, is in part of chipboard construction, and can hardly be considered as high quality design or sustainable development, as is required for new development by policy 7B of the Ealing Development Management Development Plan Document (DPD), policy 1.2(f) of the Council's Core Strategy (CS) and policy 7.6 of the London Plan (LP). Further, it is something of a labyrinth and cannot be realistically typical of local character or the prevailing pattern of development. Indeed, the appellant has not demonstrated as such.
9. In this context, and the Council's stated reasons for issuing the enforcement notice, it is clear that the purpose is to remedy the breach rather than remedying any injury to amenity. However, apart from commenting that the link structure is modest in size and scale in the context of the larger outbuilding and main house, and cannot be viewed from the street, the appellant's representations, instead, largely concentrate on the consideration that the development does not affect neighbouring occupiers. As mentioned, though, the Council has not raised any objection in this regard
10. The appellant has also mentioned the need for additional bedrooms due to personal circumstances. I accept that this might be the case, but such an individual requirement does not make this form of development acceptable in visual or planning terms, and does not outweigh the resultant harm to local character. Further, it does not meet the expectations of local planning policies and I also find that it is contrary to provisos a, b and c of paragraph 127 of the National Planning Policy Framework.

11. Accordingly, I conclude that the development is harmful to the character and appearance of the area, and is in material conflict with the aims and requirements of DPD policies 7.4 and 7B, CS policy 1.2(f) and LP policies 7.1, 7.4 and 7.6

Formal Decision

12. 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.

Timothy C King

INSPECTOR