
Appeal Decisions

Site visit made on 7 July 2020

by Diane Lewis BA(Hons) MCD MA LL M MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2020

Appeal 1 Ref: APP/N1540/C/19/3241802

Land at 52 Ram Gorse, Harlow, Essex CM20 1PY

- 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 Declan Downie against an enforcement notice issued by Harlow District Council.
 - The enforcement notice was issued on 28 October 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised construction of an outbuilding in the rear garden.
 - The requirements of the notice are: Remove the unauthorised outbuilding and any resultant material from the land.
 - The period for compliance with the requirements is 3 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. 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 as amended.
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Appeal 2 Ref: APP/N1540/W/19/3241804

52 Ram Gorse, Harlow CM20 1PY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Declan Downie against the decision of Harlow District Council.
 - The application Ref HW/HSE/19/00217, dated 21 May 2019, was refused by notice dated 30 September 2019.
 - The development proposed is shed for business use.
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DECISIONS

Appeal 1 Ref: APP/N1540/C/19/3241802

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.

Appeal 2 Ref: APP/N1540/W/19/3241804

2. The appeal is dismissed.

REASONS

Appeal 1 ground (a) and Appeal 2

3. The main issues are the same for both appeals because they relate to the same building, even though the descriptions of the development differ slightly.

4. The issues are the effects of the development on (i) the character and appearance of the surrounding residential area, and (ii) highway safety.

Character and appearance

5. Ram Gorse is in a primarily residential area of Harlow. The layout is characterised by frontage development of modern terrace and link-detached housing enclosing gardens to the rear. Some dwellings have off-street parking within their curtilages but residential parking courts are also part of the pattern of development.
6. The outbuilding has been built at the end of the rear garden to number 52. It occupies the width of the plot and is sited right up to the back edge of the footway. The publicly visible elevation fronts the approach into a garage court of two facing rows of small lock-up domestic garages and circulation space. The outbuilding has not been completed but the main features are its undue size and non-domestic appearance.
7. More particularly the Council stated that the building footprint is nearly 90 m², which the appellant has not disputed. By comparison, the Harlow Design Guide Supplementary Planning Document (the SPD) expects garden structures should not exceed the size of an average double garage (26 m²). The outbuilding is well above this size, leading to visual intrusion which the SPD seeks to avoid. The building is to be used for business storage, a function that is reflected in the building's form and appearance. Significantly, the elevation to the garage court is without any design detail and has very little reference to the surrounding residential character.
8. The outbuilding has little in common with the small lock-up garages of regular size and shape, with their up and over doors and consistent use of materials. The outbuilding also is not comparable to a building at the eastern end of the garage court, which has a residential appearance with its domestic door and window and a narrower elevation to the frontage of the court.
9. The garage court is set back from Hodings Road and is to a large degree enclosed by the surrounding rear gardens of the dwellings fronting Ram Gorse and Hodings Road. Therefore the outbuilding is not prominent within the most active and busy streets. However, it is visually over-dominant and intrusive within the garage court, changing the residential character of this space in an adverse way.
10. The proposed planting of foliage would only be possible on the garden side of the outbuilding because of its siting so close to the boundaries of the host residential property. Any eventual softening of the appearance of the building would have little or no effect on views from the garage court and the street.
11. In conclusion, the outbuilding is of poor design and has not complied with the general principles for garden structures set out in the adopted SPD. The outbuilding has a harmful effect on the character and appearance of the garage court within the residential area and does not relate well to its surroundings. Therefore the development does not achieve the improvement to the urban environment sought by Policy BE1 of the Adopted Harlow Replacement Local Plan (2006).

Highway safety

12. The appellant maintains that equipment would be carried through the house to the outbuilding to avoid access from the rear. However, the double door and single personnel door present in the street elevation indicate that the outbuilding has been built to be accessed directly from the garage court. This would be the most convenient and practicable means of access, from where off-loading and loading of goods and equipment could take place directly from a parked vehicle. Therefore the probability is that vehicle parking and access to the building would typically take place in the garage court.
13. As well as opening directly onto the access route the outbuilding is also sited close to the corner where the access way turns into the main parking court and where visibility is reduced. At times when a vehicle is parked outside for loading/off-loading there would be obstruction of the footway and, dependent on the position of the parked vehicle, obstruction of the vehicle access route. Such an outcome would not be in the interests of highway safety in a residential area. The development would not function well and therefore fails to comply with the National Planning Policy Framework's aim to achieve well designed places.

Other consideration

14. The outbuilding has a flat roof. In the ground (f) appeal the appellant has proposed reducing the height of the outbuilding from 3 metres to 2.5 metres. The planning merits of this proposal are more appropriately considered in the context of the ground (a) appeal, enabling a planning permission to be granted if the proposal is found to be acceptable.
15. A reduction in height would reduce the overall mass of the structure. However, the excessively large footprint of the building, the atypical width of the unit, the siting in relation to the garage court and the lack of any design detail would remain unchanged. In addition the proposed height reduction would not alter the means of access to the storage building and the associated highway safety issue. The small visual benefit would not be sufficient to overcome the overall harm.

Conclusions

16. The outbuilding is not acceptable by reason of the harm to visual amenity and highway safety. The outbuilding is not supported by the development plan or the Framework and there are no considerations to outweigh the identified harm.
17. For the reasons given above, and having taken account of all other matters raised, the ground (a) appeal does not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application. Appeal 2 should be dismissed.

Appeal 1 ground (f)

18. The issue is whether the requirements are excessive, having regard to the purpose of the enforcement notice to remedy the breach of planning control. In view of the wording of the relevant provisions in the 1990 Act, it is not open to the appellant to argue that the enforcement notice should serve a different purpose.

19. The breach of planning control is the erection of the outbuilding. There are no lesser steps other than the removal of the outbuilding that would remedy the breach and achieve the purpose of the notice.
20. Even if the purpose of the notice is restricted to remedying any injury to amenity, I have concluded that a reduction in the height of the outbuilding to 2.5 metres would not overcome the identified harm to amenity.
21. The appeal on ground (f) fails.

Appeal 1 ground (g)

22. The issue is whether a compliance period of three months is reasonable.
23. The appellant indicated that he is seeking sufficient time to complete the building work because he was let down by the builders. However, the compliance period is the time to carry out the requirements of the enforcement notice, namely removal of the outbuilding. No specific constraints to its removal have been identified. Having regard to the straight forward construction of the building I agree with the Council that a period of three months should be sufficient.
24. I conclude that the length of the compliance period is reasonable and the appeal on ground (g) does not succeed.

Overall conclusions

25. In respect of Appeal 1, I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.
26. Appeal 2 should be dismissed.

Diane Lewis

Inspector