



Appeal Decisions

Site visit made on 8 July 2020

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 17 July 2020

Appeal A: Ref APP/K0425/C/19/3243114

Land at 1 Musgrave Walk, Stokenchurch, Buckinghamshire HP14 3RY

- 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 Mrs Ilina Ilieva against an enforcement notice issued by Wycombe District Council.
 - The enforcement notice was issued on 26 November 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the siting of a metal container (outlined in blue on the plan attached to the notice).
 - The requirements of the notice are to remove the container (outlined in blue in the plan attached to the notice) from the Land.
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended. Since the development is exempt from the payment of fees, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act fall to be considered.
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Appeal B: Ref APP/K0425/W/19/3243116

1 Musgrave Walk, Stokenchurch HP14 3RY

- 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 Ilina Ilieva against the decision of Wycombe District Council.
 - The application Ref 19/07186/FUL, dated 7 September 2019, was refused by notice dated 21 November 2019.
 - The development is a detached single-storey outbuilding.
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Decisions

1. Appeal A 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.
2. Appeal B is dismissed.

Preliminary Matters

3. On 1 April 2020, Wycombe District Council was one of several local planning authorities to merge into a single Unitary Authority called Buckinghamshire Council. Accordingly, the appeals are proceeding in the name of the latter.
4. Appeal B is a retrospective planning application as regards the same development which is the subject of the enforcement notice in Appeal A.

Appeal A ground (a) and the deemed planning application; Appeal B

Main issues

5. The main issues in respect of both appeals are the effect of the development on:
 - the character and appearance of the host dwelling and surrounding area;
 - the living conditions of the occupiers of 10 Bartholomew Tipping Way as regards outlook.

Reasons

Character and appearance

6. The appeal dwelling is a modest end-of-terrace house, with brick walls and a tiled roof, somewhat typical of the residential estate in which it is situated. A reasonably large blue metal cabin similar in appearance to a freight container has been sited in the rear garden as an ancillary storage space for the appellant. It occupies a significant portion of the dwelling's modest rear amenity space and is located adjacent to the boundary with 10 Bartholomew Tipping Way to its rear.
7. While a number of local properties benefit from rear extensions and rear outbuildings such as wooden garden sheds, greenhouses and conservatories, the appeal structure is markedly different in totality by reason of scale, design, colour and materials. As such it appears as a starkly alien feature within the setting. The appellant has suggested that I grant planning permission with a condition to change the colour, but that aspect alone would not make the development visually acceptable.
8. The appeal structure replaced a wooden garden shed which was taller and located in the corner of the site. However, although the appeal development is in part sited in the same location it is considerably longer and consequently much larger in overall scale than the shed it replaced. Consequently, when taken together with the fact that its significant bulk covers a large portion of the garden it occupies, it appears disproportionate to the host dwelling and not subordinate to it.
9. Being located adjacent to the property's boundary with the highway and carpark, the harmful effects of the development can be readily seen from public vantage points as well as from private residential property nearby. For the reasons I have given, I do not regard the development as having adopted a sensitive design approach supported by the National Planning Policy Framework (the Framework).
10. Therefore, for all these reasons, I find that the appeal development causes significant harm to the character and appearance of the host dwelling and the surrounding area. As such it is in conflict with Policies DM35 and DM36 of the Wycombe District Local Plan (2019) (LP) which together seek to ensure that extensions and alterations to existing dwellings are well-designed and protect the character and appearance of places.

Living conditions

11. Notwithstanding the appellant's argument that the previous shed on the site was taller, it largely occupied only the corner of the site while the appeal development rises significantly above the level of the rear boundary treatment for almost the entirety of its length with 10 Bartholomew Tipping Way (No 10). The effect is to create a large expanse of built form at the rear of No 10's garden between the boundary treatment and the host dwelling of the appeal site, dominating the outlook from the rear windows and garden of No 10. This causes an unacceptable sense of enclosure to the occupiers of No 10, and significant harm to their living conditions.
12. Accordingly, I find that the development is in conflict in this respect with Policies DM35 and DM36 of the LP which together seek to ensure that extensions and alterations to existing dwellings are well-designed and protect living conditions.
13. The development does not comply with the development plan as a whole, and there are no considerations which outweigh this finding. The appellant says that the presumption in favour of sustainable development applies. However, this is not the case as the appeal structure does not accord with an up-to-date development plan. Accordingly, Appeal B and the appeal under ground (a) in respect of Appeal A do not succeed.

Appeal A Ground (g)

14. For an appeal to be successful under this ground, I must be satisfied that the time given to comply with the notice falls short of what reasonably should be allowed.
15. The appellant says that 12 months is needed to arrange funds to engage a contractor and to dismantle the appeal structure. However, no substantive evidence has been submitted to support the need for more time in those respects and I find that the 2-month compliance period of the notice is a reasonable period for necessary arrangements to be made and for the removal of the structure to occur. Accordingly, the appeal under ground (g) fails.

Conclusions

16. For the reasons given above I conclude that Appeal A should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.
17. For the reasons given above I conclude that Appeal B should be dismissed.

Andrew Walker

INSPECTOR