



Appeal Decision

Site visit made on 13 July 2020

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

an Inspector appointed by the Secretary of State

Decision date: 27 July 2020

Appeal Ref: APP/A5270/C/20/3246419

3 Belvue Road, Northolt, Middlesex UB5 5HW

- 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 Rahul Kumar against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The enforcement notice, Ref 19EN1436, was issued on 6 January 2020.
 - The breach of planning control alleged in the notice is failure to comply with conditions Nos 2 and 5 of a planning permission Ref 190394FUL granted on 1 April 2019.
 - The development to which the permission relates is conversion of dwellinghouse into three self-contained flats; construction of single storey front porch extension; and insertion of windows to the ground floor side elevation.
 - The conditions in question are:
 - (i) No 2 which states that development hereby approved shall be carried out in accordance with drawing title numbers 2018/023 -01F - Existing floor plans; 2018/023 -02F - Existing elevations; 2018/023 -06F A - Block and location plan; 2018/023 -03F - Existing ground floor plan; 2018/023 -04F - Existing first and loft floor plan; 2018/023 -05F - Proposed elevations; 2018/023-06F - Site plan, block and location - received on 29/03/19; Bike storage specs. The notice alleges that the condition has not been complied with in that the garden space allocated to Flat 3 has not been implemented.
 - (ii) No 5 which states that the hard and soft landscaping works as shown on drawing number 2018/023-06F A shall be carried out prior to the first occupation of any part of the development. Any trees or other plants, which die or are removed within the first five years following the implementation of the landscaping scheme shall be replaced during the next planting season. The notice alleges that the condition has not been complied with in that the soft landscaping has not been implemented in accordance with approved drawing number 2018/023-06F A.
 - The requirements of the notice are to:
 - I. Remove the brick floor tiles from the front and rear of the property;
 - II. Carry out the hard and soft landscaping works on the front and rear elevations as shown on drawing number 2018/023-06F A as per conditions 2 & 5 of Planning Permission 190394FUL;
 - III. Provide private amenity space in accordance with drawing number 2018/023-06F A.
 - The period for compliance with the requirements is three 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 (the Act). Since the prescribed fees have 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 fall to be considered
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Decision

1. It is directed that the enforcement notice be corrected by:
 - Substituting "171A(1)(b)" for "171A(1)(a)" in paragraph 1;
 - Substituting "2018/023-06F Revision B dated 29 March 2019" for "2018/023-06F A" in paragraph 3;
 - Substituting "ten years" for "four years" in paragraph 4;
 - Substituting "2018/023-06F Revision B dated 29 March 2019" for "2018/023-06F A" in paragraph 5 step II and in paragraph 5 step III.
2. Subject to these corrections the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary matters/the enforcement notice

3. As the breach of planning control is constituted by failing to comply with conditions subject to which planning permission has been granted, the relevant provision of the Act is section 171A(1)(b) rather than 171A(1)(a). Further to this, the time limit for enforcement action is ten years rather than four years. Accordingly, I am using my powers to make these corrections to the notice. I am satisfied that there is no injustice to the parties in making these corrections as the enforcement action is within time under both limits.
4. The notice alleges that the development does not accord with drawing no 2018/023-06F A in respect of the alleged breach of conditions, and requires that it does so. However, the main parties are in agreement that the relevant drawing is 2018/023-06F Revision B dated 29 March 2019 which was submitted at the Council's request to relocate the cycle parking to the rear of the property following concerns raised by neighbours. At the invitation of the parties I am correcting the notice accordingly, with no injustice caused.
5. The appellant is not appealing against that part of the allegation which deals with failure to implement garden space allocated to Flat 3.

Ground (a) and the deemed planning application (DPA)

Main issues

6. The main issues in this appeal are the effect of the development on:
 - the character and appearance of the building on the site and wider area;
 - highway safety.

Reasons

Character and appearance

7. The appeal property is located on a bend on Belvue Road opposite a junction with Sandringham Road. The junction position allows views of the property, and its frontage, from several aspects. The position of the frontage inside the bulge of the bend as it presents onto the streetscene further accentuates its

visual prominence, as does the fact that the frontage is wide when compared generally to nearby properties not located on a bend or junction. The total result is that the frontage of the appeal property has a more significant impact on the streetscene than others. Accordingly, the extensive area of brick tiles that have been laid on the frontage in lieu of the approved soft landscaping and front garden areas causes a strong jarring impact of hard built form between the building and highway.

8. I acknowledge that there are many local examples of properties with significant, and in some cases substantial, amounts of hardstanding and paving to the front of their curtilages which permits the parking of vehicles. However, the character in the vicinity of the appeal site is somewhat mixed with a significant number of properties retaining front gardens with significant grassed areas and/or planting.
9. The Council's Supplementary Planning Document (SPD) Planning New Garden Space (2015) says that the area between dwellings and the highway provides one of the best opportunities for enhancing the appearance of new development. To this end, it says that the design of front garden space should seek to maximise the amount of space which is naturally vegetated, with at least 50% being planted. Paragraph 130 of the National Planning Policy Framework (the Framework) says that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. I therefore give significant weight to the SPD, and to the fact that the appeal development provides considerably less than the 50% minimum planting.
10. For the above reasons, the appeal development causes significant harm to the character and appearance of the building on the site and the wider area. As such it is in conflict with Policies 7.4 and 7B of the Ealing Development Management Development Plan Document (2013) (EDMDPD), as supported by the SPD, and Policies 7.1, 7.4 and 7.6 of the London Plan (2015) (LONP) which together seek to protect character and appearance.

Highway safety

11. Paragraph 109 of the Framework states:

"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

12. The appeal development creates 3 off-street car parking spaces upon the brick-tiled frontage, contrary to the approved development which did not incorporate any off-street car parking spaces. 2 of the spaces are situated nearer the bend in the road, while the other is adjacent to 5 Belvue Road similar to the position of a previous garage on the appeal site.
13. I have seen no evidence that the frontage off-street parking design incorporates sufficient space for vehicles to turn upon it, and so it necessarily results in vehicles entering or leaving the highway in reverse gear in the locus of the bend and junction. Further, the drivers must negotiate that environment

in the further context of a bus route and one used by vehicles accessing the closely situated Northolt Industrial Estate.

14. While I acknowledge that the local speed limit is 20mph, and that the junction has a speed table and double yellow lines which together restrict both vehicle speed and parking, in my view these factors do not satisfactorily address the unacceptable impact on highway safety that the development causes. I place very limited weight that reversing onto/off the highway locally may occur elsewhere in the vicinity of the appeal site, as I do not accept the implication that all road users including pedestrians would be sufficiently aware so as to satisfactorily address the hazard (particularly close to a bend).
15. The appellant has submitted a technical note from PT Planners which concludes that visibility splays accord with Manual for Streets standards. The assessment includes drawing 21384/01 which illustrates the visibility splays. However, I noted on my site visit that there is a significant tree within the corner of the front curtilage of 1 Belvue Road very close to the boundary with the highway and with the boundary of the appeal property. There is also a highway streetlamp on the footway close to the boundary between the two properties. Both the tree and the streetlamp impede visibility between vehicles negotiating the highway at the appeal site and other road users approaching the bend from the west. Neither the tree or streetlamp are noted on drawing 21384/01. Further, the position of the streetlamp approximates to where the visibility splays originate on that drawing yet the presence of the street furniture physically prevents a vehicle exiting the frontage at that point. I therefore place limited weight on the appellant's visibility splay assessment.
16. I do not accept that the approved development would cause a greater unacceptable impact on highway safety through hazards created by increased on-street parking, as Public Transport Accessibility Levels are good (PTAL 4) and therefore there is a reduced need for local car ownership.
17. For all of the above reasons, the development causes an unacceptable impact and significant harm to highway safety. As such it is conflict with Policy 7B of the EDMDPD and Policy 6.3 of the LONP which together seek to ensure developments are well-designed and do not adversely affect the safety of the transport network. The development is also in conflict with the Framework.

Conclusion on ground (a) and the DPA

18. As the development does not accord with the development plan as a whole, and as there are no other considerations which outweigh this finding, the appeal under ground (a) and the DPA fail.

Ground (f)

19. It is clear from paragraph 4(VI) of the notice that the Council is pursuing the purpose of remedying the breach of planning control rather than remedying injury to amenity.
20. Notwithstanding this purpose, the appellant has put forward a revised scheme for hard and soft landscaping works in drawing number 2018/023 -06F C. The revised scheme would retain some of the current hardstanding with 3 on-site car parking spaces but would incorporate green areas with ground covering plants and 0.6m high brick walls along parts of the front boundary of the site.

21. However, this alternative to what is required in the notice would not remedy the breach of planning control as it would not cause the development to comply with the terms of the planning permission which has been granted. Further, even had I found that the purpose of the notice was to remedy injury to amenity caused by the breach, the alternative scheme would not achieve this. It does not offer any solution to remedy the harm I have identified to highway safety, and in respect of character and appearance there would still be significant harm as the soft landscaping measures proposed would be significantly less than the 50% minimum planting of front garden space required by the SPD.
22. Therefore, while declining to use my powers under ground (a) to grant planning permission for the development in whole or in part either as-built or as proposed under the revised scheme, I will also not vary the notice under ground (f) as no lesser steps are possible to remedy the breach of planning control than as required in the notice. Therefore, the appeal under ground (f) fails.

Ground (g)

23. 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.
24. The appellant says that 6 months is needed to arrange funds to comply with the notice. However, no substantive evidence has been submitted to support this and I find that the 3-month compliance period of the notice is a reasonable period for the requirements to be undertaken. Accordingly, the appeal under ground (g) fails.

Conclusion

25. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the deemed application.

Andrew Walker

INSPECTOR