



Appeal Decision

Site visit made on 11 August 2020

by Sarah Dyer BA BTP MRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 02 September 2020

Appeal Ref: APP/B5480/C/20/3245946

The land at 84 Highfield Road, Collier Row RM5 3RU

- 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 Mohammed Miah against an enforcement notice issued by the Council of the London Borough of Havering.
 - The enforcement notice, numbered ENF/741/18, was issued on 21 January 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a single storey side extension.
 - The requirements of the notice are:
 - (i) Demolish the single storey side extension from the area as indicated hatched black on the attached plan; and
 - (ii) Remove all rubble, debris accumulated when taking steps (1) above.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice be corrected by deleting the plan attached to the notice and replacing it with the updated plan dated 14 August 2020 which shows the extension hatched black.
2. Subject to this correction, the appeal is dismissed, and the enforcement notice is upheld.

Procedural Matters

3. The appeal has not been made under ground (a) therefore the merits of the appeal scheme are not before me and I am unable to give consideration as to whether deemed planning permission (DPA) should be granted. Notwithstanding the comments made by the appellant in respect of the impact of the extension it is not possible for me to recognise ground (a) as a 'hidden ground' because the necessary fee for the DPA has not been paid.

The Notice

4. At Section 5(i) of the notice the extension is referenced as an area hatched black on the plan which is attached to the notice. However, this black hatched area was not shown on the plan. At my request the Council have updated the plan to include this annotation. As it is clear that the appellant is aware of which part of the building is the subject of the notice he would not be

prejudiced by my determination of the appeal on the basis of the updated plan. I will correct the notice accordingly.

Ground (c)

5. An appeal on ground (c) is on the basis that the matters alleged in the notice do not constitute a breach of planning control. This is also a legal ground of appeal and the onus of proof lies with the appellant. The standard of proof is the balance of probabilities.
6. The appellant argues that the structure attached to the side of his house is a car port and that it does not require planning permission because it is within his property, is made of light materials, meets regulated measurements and falls within the category of an outbuilding. He also notes that he has not received any complaints about the structure.
7. On the other hand, the Council does not consider the structure as constituting an outbuilding because it is attached to the house and it provides photographs to support this view.
8. The structure is referred to by the appellant as being attached to the house, therefore it cannot be regarded as an outbuilding as he suggests, and the notice is correct in alleging the breach of planning control as an extension. The appellant has not provided any evidence to demonstrate that the breach of planning control set out in the notice amounts to permitted development or that it does not amount to a breach of planning control for any other reason.
9. For the reasons set out above the appeal under ground (c) fails.

Conclusion

10. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice, subject to the correction as set out in the decision.

Sarah Dyer

Inspector