



Appeal Decision

Site visit made on 2 September 2020

by Timothy C King BA (Hons) MRTPI

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

Decision date: 2 October 2020

Appeal Ref: APP/Z5060/C/20/3249195

Land and premises at 21 South Road, Chadwell Heath, Romford RM6 6YD

- 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 Satpal Singh against an enforcement notice issued by the Council of the London Borough of Barking and Dagenham.
 - The enforcement notice was issued on 4 March 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised erection of a side extension.
 - The requirements of the notice are to:
 - (i) Remove the unauthorised side extension in its entirety.
 - (ii) Remove all subsequent waste material from the premises.
 - The period for compliance with the requirements is 3 months after this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (b) of the Town and Country Planning Act 1990 as amended. An application for planning permission, fee exempt, is deemed to have been made under section 177(5) of the Act as amended falls to be considered.
-

Formal decision

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

Background

2. The appellant has recently submitted planning applications on two separate occasions with proposals to replace the existing structure with a single storey side extension. Both were, however, refused planning permission; ref 19/01869/FUL in February 2020 and ref 20/00238/FUL in May 2020. It is the latter element which the enforcement notice, subsequently issued by the Council, seeks to remove.

The Appeal on Ground (b)

3. The appeal on ground (b) is whether the matter alleged to be a breach of planning control has occurred as a matter of fact. The appellant must show on the balance of probability that those matters have not occurred. The relevant date is that of the issue of the notice ie 4 March 2020.
4. The appellant, in his representations, indicates that the existing "temporary structure" was in place when he bought the property in 2014. With this in mind it was open to the appellant to make an appeal under ground (c) to claim that planning permission was not required because it was built by way of a planning permission or, instead, constituted permitted development.

Alternatively, an appeal might have been lodged under ground (d) claiming that, at the time the enforcement notice was issued, it was too late to take any remedial action as, due to the passage of time, the structure enjoyed immunity from planning control. However, no such appeals were made.

5. In the circumstances, as it is common ground that the structure was in situ at the date the enforcement notice was issued, the appeal under ground (b) must fail.

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

Main Issues

6. These are:

- 1) the effect of the development on the character and appearance of the area; and
- 2) the effect of the development on the living conditions of neighbouring properties.

Reasons

Character and appearance

7. The side extension at issue, as it is termed in the enforcement notice, is a rather ramshackled, wooden structure. It has the height and depth of a standard domestic garage and is currently used for the storage of general building materials. The storage extends beyond the rear of the structure where the area between this and a garden shed is used for open storage of step ladders, timber planks etc.
8. The structure, which I consider to be unsightly and clearly out of keeping with the general streetscene, has the width of a double size garage and extends to the projected flank wall of no 23, the neighbouring dwelling. This compounds the visual incongruity; its design being clearly unsympathetic to both the neighbouring and host dwellings.
9. Although it has previously been termed as a "temporary structure" it has seemingly been in situ for a significant amount of time. I note that the appellant has previously sought planning permission for its replacement with brick built extensions but, although these have been unsuccessful, it does not mean that the existing wooden extension should remain in place.
10. The appellant has made no other representations in support of his case save that he has repaired and replaced its defective flat roof. Whether or not structural improvements were made to the development similarly, given its appearance, this does not weigh in favour of its retention.
11. In the circumstances it is the appellant's responsibility to attempt to enter into negotiations with the Council and hopefully draw up a scheme which might be looked upon favourably. I have not received any information to suggest that effective discussions have taken place to this end.
12. I conclude that the structure's appearance by way of the materials used and its method of construction is harmful to the character and appearance of the immediate area, and is in material conflict with the design objectives of policies

BP8 and BP11 of the Borough Wide Development Policies Development Plan Document (DPD) and also the more prescriptive design principles for such set out in the Council's Supplementary Planning Document 'Residential Extensions and Alterations' (SPD).

Living conditions

13. After my site visit, following up on a previous specific request made to view the development from the rear garden of No 23, I called at this property and was able to make an assessment as to its resultant impact.
14. I observed that for the majority of the structure's depth it exceeds the height of No 23's adjacent open-sided canopy and, although, that in itself would not necessarily be visually unacceptable, the structure's size and appearance has had an adverse effect on the visual amenities or living conditions at No 23. This is contrary to the aims of the highlighted policies and SPD which, amongst other things, seek to protect the residential amenities of neighbouring occupiers. In this particular regard no other property other than No 23 is affected.
15. I conclude, on this main issue, that the development is harmful to the living conditions of No 23, and is in material conflict with the objectives and requirements of DPD policies BP8 and BP11 and also the Council's SPD.

Conclusion

16. I have found harm on both main issues which is compelling. For the above reasons, and having had regard to all matters raised, the appeal is dismissed.

Timothy C King

INSPECTOR