The Planning Inspectorate

Appeal Decision

Site visit made on 20 July 2021

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 August 2021

Appeal Ref: APP/B5480/C/20/3257668
Land at 106 Belgrave Avenue, Romford RM2 6PU

- 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 Ms Deborah Freeman against an enforcement notice issued by the Council of the London Borough of Havering.
- The enforcement notice was issued on 14 July 2020.
- The breach of planning control as alleged in the notice is: Without planning permission, the erection of a front boundary fence to a height in excess of 1 metre.
- The requirements of the notice are:
  (i) Remove all fencing from the front curtilage of the dwelling; and
  (ii) Remove all materials and debris resulting from step (i) from the site.
- The period for compliance with the requirements is 1 month.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (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.

Decision

1. The appeal is allowed and the enforcement notice is quashed.

Reasons

2. The Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) grants planning permission for specified forms of development, subject to conditions and limitations.

3. Schedule 2, Part 4, Class A of the Order concerns temporary buildings and structures. Under this Class, the provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land is permitted development, ie planning permission is granted for it automatically.

4. The appellant states that the property is currently undergoing a programme of refurbishment and renovation. This is consistent with my observations at my site visit, where I saw the roof was in the process of being retiled. The extent of the works has been described by the appellant in the information provided.

5. The appeal development is free-standing metal fencing which has been erected around the 3 sides of the front boundary of the appeal site. It is bolted to the front elevation of the appeal building.

6. Based on the information provided, I have no reason to believe this fencing is not reasonably required temporarily, during the building operations described by the appellant, to secure the otherwise open land at the front of the site. In particular, the fencing protects building materials being stored on the land temporarily and it keeps people out of the site for good reasons of health and safety.

7. The Council states that Class A "allows for the erection of moveable structures but the land must not be part of your garden or curtilage of your property". But I have not been referred to any authority for this view and it is not what is reflected in the wording of the Order.

8. Paragraph A.1. of Class A states that development is not permitted if— (a) the operations referred to are mining operations, or (b) planning permission is required for those operations but is not granted or deemed to be granted.

9. There is no evidence either of the above limitations are not met in this case. Specifically, the Council has not contested the appellant's assertion that none of the operations being carried out require an express grant of planning permission. Based on the information provided and the provisions of section 55(2)(a) of the 1990 Act, I have no reason to disagree with the appellant in this regard.

10. Paragraph A.2. of Class A states that development is permitted subject to the conditions that, when the operations have been carried out— (a) any building, structure, works, plant or machinery permitted by Class A is removed, and (b) any adjoining land on which development permitted by Class A has been carried out is, as soon as reasonably practicable, reinstated to its condition before that development was carried out. There is no evidence either of the above conditions are not complied with in this case either.

11. Taking into account all of the above points, I am satisfied the appeal development is permitted under Class A.

12. Should the appeal development not be removed (in accordance with condition A.2.(a) noted above) when the building operations have been carried out, it would remain open to the Council to take further action, pursuant to section 172 or section 187A of the 1990 Act.

13. I appreciate the fencing may have been on the site since June 2017 and that it does not reflect the character or appearance of boundary treatments seen on neighbouring properties. But this does not alter my conclusion that the appeal development is permitted development whilst building works are being carried out at the property.

Conclusion

14. For the reasons given above, I conclude that the appeal should succeed on ground (c). The enforcement notice will be quashed. In these circumstances, the appeals on grounds (a), (f) and (g) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act do not fall to be considered.

L Perkins

INSPECTOR