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## Appeal Decision

Site visit made on 19 January 2022

**by L Perkins BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 January 2022**

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**Appeal Ref: APP/A5270/C/21/3273481**

**159 Kings Avenue, Greenford, Middlesex UB6 9DE**

- 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 Madanjit Bains against an enforcement notice issued by the Council of the London Borough of Ealing.
  - The enforcement notice was issued on 26 February 2021.
  - The breach of planning control as alleged in the notice is: Without planning permission, the construction of a canopy extension to a rear garden outbuilding.
  - The requirements of the notice are:
    1. Demolish the canopy extension in its entirety; and
    2. Remove all resultant debris.
  - The period for compliance with the requirements is: 3 months.
  - The appeal is proceeding on the grounds set out in section 174(2) (a) and (c) 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.
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### Decision

1. The appeal 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.

### Preliminary Matters

2. Since the enforcement notice was issued the revised National Planning Policy Framework (the Framework) came into force, replacing a previous version of the Framework. In addition, a new version of the London Plan has been published and so the London Plan policies published in 2016, referred to in the notice, have been superseded by those in the London Plan 2021. Both main parties have had the opportunity to comment on any relevant implications of the above for this appeal and any relevant comments received have been taken into account in my reasoning.

### Reasons

#### *The ground (c) appeal*

3. An appeal on ground (c) is that the matters stated in the notice do not constitute a breach of planning control. In a ground (c) appeal the onus is on the appellant to make out their case to the standard of the balance of probabilities.

4. The appellant's case refers to 'permitted development', ie development for which no planning application is required as it is granted automatically by a development order.
5. The appellant states that before carrying out any work they made all the necessary enquiries with 'building regulations' as to whether planning permission would be required to construct what they refer to as a carport in their garden and that planning permission was not necessary, according to them.
6. If any person wishes to ascertain whether any building operations proposed to be carried out would be lawful, they may make an application for the purpose to the local planning authority, under section 192 of the 1990 Act, specifying the land and describing the operations in question.
7. No evidence of any such application having been made (and approved) has been provided and any enquiries made by the appellant to any party other than the local planning authority do not accord with the statutory provision under section 192 noted above.
8. No evidence has been provided by the appellant which satisfies me that the appeal development in this case is permitted development.
9. The appellant states that the canopy is a carport made specifically for their cars and that it is not a 'fixed' carport. But I do not accept this argument as the structure is clearly fixed to wooden posts which are embedded in a concrete hardstanding and it appears physically attached to an outbuilding in the rear garden. As such, it is a building operation for which planning permission is required and there is no evidence that any such planning permission exists.
10. Taking all the above points into account, the appeal on ground (c) fails.

*The ground (a) appeal*

11. Based on the reasons for issuing the enforcement notice, the main issue in the ground (a) appeal is the effect of the appeal development on the character and appearance of the area.
12. The area is characterised by rows of terraced houses finished in render or pebbledash, with back gardens, some of which contain outbuildings. The appeal site contains one such house, prominently sited on a corner plot. A large outbuilding exists in its back garden.
13. The canopy extension adjoins the outbuilding and extends towards the rear of the main house. The canopy extension fills the width of the rear garden and is substantial in size. Its footprint is almost as large as that of the outbuilding. It is comparable in height to the outbuilding and it runs along a significant part of the appeal site's side boundary.
14. The canopy stands significantly higher than the boundary wall with the street and is immediately adjacent to the back edge of the pavement. As a consequence of this arrangement, the canopy is highly conspicuous and prominent and, in my judgement, it appears as a substantial extension to the outbuilding, particularly if viewed from the upper floors of neighbouring homes.
15. The canopy has a plastic roof with a polycarbonate fascia and is supported by wooden posts. This combination of materials does not reflect or complement

those used on existing homes seen in the area. Standing on the highway outside the site, no other such structure is seen in the vicinity, meaning the canopy extension appears as an incongruous feature in the street scene.

16. The appellant states that they took all the necessary measures to make sure the appeal development would not cause problems to anyone and that they spoke to their neighbours to see if they had any objections, to which their neighbours said they did not. Be that as it may, in my view, due to its position, size and materials, the canopy extension harms the character and appearance of the area.
17. As such, in this regard, the appeal development does not comply with the development plan policies that my attention has been drawn to. These are Policy D3 of the London Plan 2021, Policies 7.4 and 7B of Ealing's Development Management Development Plan Document 2013. In addition, the appeal development does not comply with Ealing's SPD<sup>1</sup> 4 'Residential Extensions', which in my view is a material consideration in this case.
18. I conclude that the appeal on ground (a) fails.

### **Conclusion**

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

*L Perkins*

INSPECTOR

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<sup>1</sup> Supplementary Planning Document