



Appeal Decision

Site visit made on 8 March 2022

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 March 2022

Appeal Ref: APP/Q5300/C/21/3275068 156 Willow Road, Enfield EN1 3AU

- 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 Turgay Guler against an enforcement notice issued by the Council of the London Borough of Enfield.
 - The enforcement notice was issued on 16 April 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised erection of a single storey rear canopy extension (outlined in blue on the attached plan for identification purposes) and a detached outbuilding with chimney (outlined in green on the attached plan for identification purposes) to the rear of the Premises.
 - The requirements of the notice are:
 - 5.1 Remove the single storey rear canopy extension (outlined in blue on the plan for identification purposes)
 - 5.2 Reduce the height of the outbuilding and chimney (outlined in green on the attached plan for identification purposes) to a height no greater than 2.5 from original ground level in order to comply with parameters set out within Article 3, Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015.
 - 5.3 Remove all resulting materials from the Premises
 - The period for compliance with the requirements is 2 calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) 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.

Procedural Matters

2. Further revisions have been made to the National Planning Policy Framework during the course of my consideration of the appeal and a revised version was published in July 2021 (the Framework). I have invited the main parties to comment on the Framework and have taken account of any responses from them in my determination of the appeal.
3. When an enforcement notice is appealed on ground (a) and the fee is paid on time, the appellant is deemed under s177(5) to have made an application for planning permission in respect of the matters stated in the enforcement notice

as constituting the breach of planning control. Whilst the appellant states that the single storey rear canopy extension will be removed (in compliance with the notice), the deemed planning application (DPA) is for the operations carried out. I have therefore determined the appeal on this basis.

Appeal on ground (a), the deemed planning application (DPA)

Main Issues

4. The main issues are:

- The effect of the single storey rear canopy extension upon the living conditions for the neighbouring occupiers of Nos 154 and 158 Willow Road, with particular regard to outlook and daylight.
- The effect of the outbuilding and chimney upon the living conditions for the neighbouring occupiers of Nos 154 and 158 Willow Road and Connaught Avenue, with particular regard to outlook.

Reasons

Single Storey Rear Canopy Extension

5. The appeal property is a two storey semi-detached property, which has been previously extended with a single storey flat roof rear extension. Part 2.a of Policy DMD 11 of Enfield Council's Development Management Document, 2014 (DMD) states that single storey extensions must not exceed 3 metres in depth beyond the original rear wall in the case of terraced and semi-detached properties. However, contrary to the above policy the unauthorised canopy extension, in combination with the pre-existing single storey rear extension far exceeds this maximum depth.
6. With regard to the effect of the canopy extension on the occupiers of No 158 Willow Road, the existing gap between Nos 156 and 158 has been maintained, so that the canopy extension is set away from the shared boundary with No 158. As such, the canopy extension does not harm the living conditions of the occupiers at No 158 in relation to loss of light or outlook.
7. However, the unauthorised canopy rear extension is built close to the shared boundary with No 154. The canopy extension appears as a dominant feature in the outlook from windows in the rear elevation of this neighbouring property at ground floor level and from the garden itself. Furthermore, the canopy extension rises above the existing boundary treatment, and therefore results in greater harm. In this respect the unauthorised canopy extension creates an increased sense of enclosure, and a reduction in daylight to neighbouring occupiers of No 154, which harms their living conditions.
8. Therefore, whilst I find no harm to the living conditions to occupiers of No 158, I find that the development fails to provide acceptable living conditions for occupiers of No 154, with regards to daylight and outlook. Accordingly, the development is contrary to Policies DMD 11 and DMD 37 of the DMD, which amongst other things states that extensions will only be permitted if there is no impact on the amenities of the original building and its neighbouring properties; and that development which fails to have appropriate regard to its surroundings, will be refused.

9. The development is also contrary to paragraph 130 of the Framework which seeks to ensure all developments creates places with a high standard of amenity for existing and future user.

Outbuilding and Chimney

10. This part of the appeal development comprises a single storey flat roof outbuilding, which has been erected at the rear of the back garden. I note that the appellant states that the site level has been reduced by 200mm. Nevertheless, the excessive height of the outbuilding results in a visually intrusive, dominant, and unneighbourly form of development, built close to the boundary with the neighbouring residential properties at No 154 Willow Road and Connaught Avenue, at the rear of the site. The height of the outbuilding is further exacerbated by its prominent chimney, which rises proud above the outbuilding. This results in harm to the living conditions for the occupiers of these neighbouring residential properties, with regard to outlook.
11. However, given the presence and location of an adjacent outbuilding located in the rear garden of No 158 Willow Road, the current appeal development does not result in any harm to the living conditions of the occupiers at No 158 in relation to loss of outlook.
12. Therefore, whilst I find no harm to the living conditions to occupiers of No 158, the outbuilding and chimney fails to provide acceptable living conditions for occupiers of No 154 and Connaught Avenue, to the rear of the site, with regard to outlook. Accordingly, the development is contrary to Policy DMD 6, DMD 8, DMD 12, DMD 37 of the DMD. Amongst other things, these require that the scale and form of development is appropriate to its existing setting and surroundings, preserves the amenity in terms of outlook, and that the outbuilding is of an appropriate height and bulk so as not to adversely impact on the amenities of neighbouring properties.

Other Matters

13. The Council have also referred to Policy CP30 of the Enfield Plan, Core Strategy 2010-2025 (2010). However, this policy refers to development in the public realm, which does not appear to be relevant to the case advanced by the Council.
14. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. I have found conflict with the development plan with regard to the living conditions to neighbouring occupiers does. Therefore, there are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.

Conclusion

15. 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 application deemed to have been made under section 177(5) of the 1990 Act as amended.

R Satheesan

INSPECTOR