



Appeal Decision

Site visit made on 9 March 2022

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 April 2022

Appeal Ref: APP/P4605/C/21/3287431

32 Vaughton Street, Birmingham, B12 0SS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (hereafter “the Act”).
 - The appeal is made by Mr madam Pal Singh against an enforcement notice issued by the Birmingham Council.
 - The enforcement notice was issued on 26 October 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised erection of a detached structure in the approximate position edged in green on the attached plan.
 - The requirements of the notice are:
 - i) Demolish the entire unauthorised detached structure; and
 - ii) Remove all demolished building materials and rubble from the premises arising from compliance with requirement (i) above.
 - The period for compliance is 3 months.
 - The appeal is proceeding on the ground set out in section 174(2)(c) of the Act. Since the prescribed fee has not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act have lapsed.
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Decision

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

Appeal site

2. No. 32 Vaughton Street is an extended two storey semi-detached house with a paved front forecourt. At the corner of the front forecourt, offset from the main house, a building has been constructed subject of the notice and this appeal (“the appeal building”).

The appeal on ground (c)

3. An appeal on ground (c) argues that the matter alleged in the enforcement notice does not constitute a breach of planning control. The burden of proof in a ground (c) appeal falls to the appellant with the test of the evidence on the balance of probabilities.
4. There is no dispute that the appeal building comprises “development” as defined at s55 of the Act and that it requires planning permission. The appellant’s case is that the building already benefits from planning permission (Ref: 2019/00265/PA) granted by the Council in 2019. He argues that although there are differences between the approved plans for the garage and the appeal building they are minor differences.

5. The approved plans for the garage show a single storey detached garage with a footprint of 5.3m x 4.6m and a height of 3.6m to the ridge of a dual pitched roof. It was also shown having a standard garage door to the front and no windows on any elevation.
6. In comparison with the approved garage the appeal building has a footprint of approximately 8.7m x 4.7m and a height of 5.3m to the ridge. Consequently, it is substantially larger than the approved building. It is not a minor difference.
7. There are some other differences. Instead of single storey the appeal building is 1.5 storey, having two rooms in the roof facilitated by an almost full width box dormer with two windows on the roadside elevation. A further window is located at first floor front elevation. At ground floor, instead of a garage door there is a pedestrian door into the front room with a tripartite bow window, with two more windows in the rear elevation serving a separate smaller room. All of these differences between what was approved and what has been built are not minor.
8. Since the appeal building bears little resemblance to the scale and design of the approved single storey garage, it does not benefit from that planning permission.
9. Consequently, since the appeal building requires planning permission which has not been granted, it thereby constitutes a breach of planning control.
10. The appeal on ground (c) therefore fails.

Thomas Shields

INSPECTOR