



Appeal Decision

Site visit made on 15 August 2022

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 05 September 2022

Appeal Ref: APP/A5270/C/21/3275172

50-52 Montague Road, Southall, Middlesex, UB2 5PD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mrs Ranjit Kaur Sidhu against an enforcement notice issued by London Borough of Ealing.
 - The notice, numbered 19EN1308(2), was issued on 26 March 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a single storey detached rear garden outbuilding.
 - The requirements of the notice are 1. Remove from the outbuilding the shower, toilet, basin, kitchen cupboards, sink and cooking equipment; 2. Demolish the single storey detached rear garden outbuilding; and 3. 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), (f), (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.
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Decision

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

The Appeal on Ground (a)

2. This appeal is that planning permission should be granted for the matters alleged. In this case a detached garden building.
3. At the time the notice was issued the situation was that Nos 48 and 50 were a pair of semis and No52 was an extension to No50 that was itself a lawful dwelling. No 48 was occupied by the appellant and her family while Nos50 and 52 were let out to tenants. All three houses have the same length back gardens.
4. In the back garden to No48 a large garden building had been constructed and in 2019 enforced against. The notice was quashed at the subsequent appeal and that building is now lawful. The appeal succeeded on ground (b) that a separate dwelling had not been created. The outbuilding, although to all intents and purposes a dwelling, was actually used by extended members of the family. The Inspector decided the outbuilding was similar to a 'granny annex' so there had not been the creation of a separate dwelling and no material change of use. This outbuilding is still there and in use today.
5. Following that, another large outbuilding was built in the bottom of the gardens of Nos50 and 52. When the notice was issued, the gardens of Nos50 and 52 had been amalgamated, in that the fence separating them was removed, and the outbuilding spanned the full width of the two gardens. The outbuilding

- contained a separate bathroom with a shower, toilet and sink and one large room with a fitted kitchen at the rear. The Council surmised another dwelling was being built and issued the enforcement notice subject to this appeal.
6. At that time the fitted kitchen consisted of a sink and kitchen units, the latter at ground and wall level, with spaces left and wiring in place for a cooker and cooker hood. No use had begun at that time. During my site visit I saw the building was more or less as described by the Council, except that it was full of domestic storage, including the bathroom. It was so crammed with items I couldn't see the bathroom sink so cannot say whether one was fitted or not, but there was a shower unit in the shower cubicle and a toilet. The kitchen area was similarly full, but I could see the kitchen units, sink and space for cooker and hood as well as a separate cooker switch on the wall.
 7. The appellant suggested that electrical and water connections had not been made at the time of the notice, but they clearly can easily be, if they have not already been and the building was constructed with the intention of having water and electricity. But the main change was that now all three gardens had been amalgamated. A new patio had been laid across the back of all three houses linking them together. What looked like new patio doors had been put in the back of Nos 48 and 50, and the three now looked like one large dwelling with one large garden and two large outbuildings, both also potentially to be used as dwellings.
 8. It is quite likely that some at least of these changes, not least the possible amalgamation of three dwellings into one, would require planning permission, but these matters are not before me and I shall not speculate on them. However, it does make it difficult to deal with the ground (a) appeal. It is far from clear what use the outbuilding will be put to. The appellant argues it will be ancillary to the main dwelling, but which one? At the time of the notice they were rental properties, and it is highly unlikely the appellant would provide a gym, or storage, or any of the other uses suggested (bar, bowling alley, art studio etc) for tenants. None of these uses would require a bathroom and fitted kitchen, with or without a cooker. Clearly the building was constructed as a dwelling, even if that use was never begun. It may be used ancillary to the new set-up at 48-52, but I have no evidence for that nor can I be sure that arrangement is lawful or even what it consists of. The appellant suggested that No50 was likely to be vacated by tenants and will then be occupied by her extended family and that No52 was rented out to a close friend. That may well be what has happened, but I have no evidence for that, nor does it explain why they would want an outbuilding fitted out as a dwelling. In any event if the whole plot is now being operated as a single planning unit then there is already a large outbuilding in the garden behind No48.
 9. In summery in terms of the use therefore, it seems to me the building was constructed for use as a dwelling, but that use was never begun. At the time it was in the back gardens of Nos50 and 52 which had been amalgamated but were still being rented out to tenants. I find it highly unlikely it was intended from the outset to be an ancillary building for the tenants to use, particularly given its internal configuration. That position may now be different, but none of the apparent changes I saw are before me and the appellant needs to ascertain whether any of them require planning permission before consideration can be given to what use the outbuilding might have.

10. In terms of the impact of the structure on amenity, it is a large and dominant building, with a large overhanging flat roof that makes it look even bigger. Policy D3 of the London Plan looks to optimise site capacity through a design-led approach. Essentially for this form of development it means the building should be well designed, responding to local character and to be of high quality. Ealing's local plan at Policy 7.4 and 7B supports this by requiring appropriate levels of development on the site, good quality architecture, and that buildings should be in scale with their surroundings.
11. I accept that the outbuilding does not seem to be visible from public vantage points, but it is clearly seen from houses in Montague Road and Recreation Road, which runs at right angles to Montague Road. Assuming it was part of the joint back gardens of 50 and 52, as it was when the notice was issued, then it appears to be jammed into that garden, filling the full width, and is entirely out of scale with its surroundings. In particular because it is squeezed in next to the already excessively large outbuilding behind No48.
12. When considered as part of the amalgamated gardens as I saw on my site visit, the same problems persist, except that now the fact that it is built in a different style and with different finishes to the outbuilding behind No48 makes it stand out even more as harmful. It clearly is not a carefully thought-through design that complements either the main dwellings or the existing outbuilding. Consequently, even if a genuine ancillary use was possible, the building itself is disproportionate and poorly designed, harming the character and appearance of the neighbourhood contrary to the policies noted above.
13. The appellant argues the footprint of the outbuilding is not disproportionate to its neighbour, but that is true only if one compares it with the already very large outbuilding at the back of No48. In any event, disproportionality is also a matter of visual impact, which I have described above. The outbuilding clearly amounts to overdevelopment of the plot. The appeal on ground (a) fails.

The Appeal on Ground (f)

14. The appellant suggests removing the overhanging roof element, which would make the building appear smaller and slightly less dominant, but it would in turn make it appear even more of a poorly designed structure that had simply been thrown up without any thought for its surroundings. No other suggestions have been made that would resolve the issues I have identified above so the appeal on ground (f) fails.

The Appeal on Ground (g)

15. The appellant suggests that securing the services of a builder will be difficult during covid, but as the pandemic is now easing, and the site seems to be subject to ongoing works anyway, there should be no problem with carrying out the requirements within the 3 months specified. The appeal on ground (g) fails.

Other Matters

16. I have not considered whether the outbuilding could be used as a separate dwelling nor whether access could be gained down a side alley, which is disputed by the appellant as the use as a separate dwelling is not what has been alleged and so is not before me.

Simon Hand

INSPECTOR