



Appeal Decision

Site visit made on 31 August 2022

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2022

Appeal Ref: APP/N5090/C/22/3291189

Land at 38 Gainsborough Road, London N12 8AH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mrs Rekha Shah against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 20 December 2021.
 - The breach of planning control as alleged in the notice is without planning permission the construction of an outbuilding.
 - The requirements of the notice are:
 - 1 Demolish the outbuilding
 - 2 Permanently remove all constituent materials resulting from the works in 1. above from the property.
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the construction of an outbuilding at 38 Gainsborough Road, London, N12 8AH as shown on the plan attached to the notice.

Preliminary Matter

2. The Council referred to policies from The London Plan 2016 in the reasons for issuing the notice. However, The London Plan 2021 was adopted prior to issue of the notice. I have therefore only had regard to those policies from the adopted development plan, referred to in the notice, in my assessment.

The appeal on ground (a) and the deemed planning application

Main issues

3. The main issues are the effect of the outbuilding on (i) the character and appearance of the area and (ii) the living conditions of the occupiers of neighbouring houses with particular regard to outlook and daylight matters.

Character and appearance

4. The outbuilding is in the rear garden of 38 Gainsborough Road which is a semi-detached house located in a residential area.

5. The outbuilding is located at the end of the garden and occupies almost the entire width. It has a straightforward appearance, with a flat roof form, finished with render to match the house. Whilst it has an irregular shape, this would only be visible from the upper floor windows in the nearest neighbouring houses, with close views of the outbuilding limited to the nearest neighbouring dwellings and gardens. Consequently, I consider that the outbuilding does not cause material harm to the character and appearance of the area.
6. There is therefore no conflict with the design aims of Policy DM01 of the Local Plan¹ or Policy CS5 of the Core Strategy².

Living conditions

7. The outbuilding is, according to the Council's figures around 2.8m in height and around 4m wide. It is located in close proximity to the shared boundary with 8 Holden Road at the rear.
8. No.8 is a detached house with a reasonably large, long, and wide back garden. The house and garden at No.8 are situated at a lower ground level than No.38 such that the outbuilding projects above the existing, approximately 2m high, boundary fence by a reasonable amount.
9. There is a modest sunroom type extension with a glazed roof and patio doors, at the rear of No.8, located close to the shared boundary and outbuilding. Outlook from the patio doors would have already been limited to some extent by the relatively tall boundary fence. Whilst the outbuilding projects above the fence it is set back from the boundary and, since views out over the garden offer an otherwise open aspect, I conclude that it will not have a materially harmful overbearing impact on the outlook from within the house at No.8.
10. Although the outbuilding is visible from within the garden at No.8, it does not extend along the entire length of No.8's garden boundary and as views from the garden are otherwise largely unobstructed, I find there is no harm because of an overbearing impact on the outlook from within the garden.
11. The rear of No.8 faces broadly north and daylight filtering through the patio doors would already be limited to some extent by the fence. Accordingly, since the outbuilding is located broadly east of No.8 and because the glazed roof of the sunroom is largely unaffected, I find that there will be no materially harmful loss of daylight.
12. Overall, for the reasons given, I conclude that the outbuilding causes no material harm to the living conditions of the occupiers of No.8 in respect of outlook or daylight matters. There is therefore no conflict with Policy DM01 of the Local Plan or Policy CS5 of the Core Strategy. Together these policies require development to be designed to allow for adequate daylight and outlook, and to protect residential gardens.
13. The Council referred to Policy CS1 of the Core Strategy, the strategic aims of which are not relevant to the detailed considerations in this case.

¹ Barnet's Local Plan (Development Management Policies) Development Plan Document September 2012

² Barnet's Local Plan (Core Strategy) Development Plan Document September 2012

Conditions

14. The Council has not suggested, nor do I consider any conditions are necessary since the outbuilding is complete.

Conclusion

15. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the outbuilding as described in the notice. The appeal on ground (f) does not therefore fall to be considered.

Felicity Thompson

INSPECTOR