



Appeal Decisions

Site visit made on 12 October 2022

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd November 2022

Appeal A ref: APP/M5450/C/22/3277107

Appeal B ref: APP/M5450/C/22/3277108

Appeal C ref: APP/M5450/C/22/3277109

Land at 11 Coombe Close, Edgware HA8 6BA

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - Appeal A is made by Mrs Giancarla Clerico; Appeal B is made by Kaivan Faria; and Appeal C is made by Mr Beajan Faria against an enforcement notice issued by the Council of the London Borough of Harrow.
 - The notice was issued on 7 May 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised construction of an outbuilding on the land identified as "outbuilding D" shown hatched in black on the annexed plan marked "plan 2" (referred to as the "Unauthorised Development").
 - The requirements of the notice are:
 - 1) demolish the Unauthorised Development (outbuilding D shown hatched in black on plan 2).
 - 2) remove from the land all materials and debris resulting from compliance with step 1 above.
 - The period for compliance with the requirements is within 3 months after the notice takes effect.
 - The appeals are proceeding on the grounds set out in section 174(2)(a), (c) and (g) of the Town and Country Planning Act 1990 as amended. Since the appeals have been brought on ground (a), applications for planning permission are deemed to have been made under section 177(5) of the Act.
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Preliminary Matters

1. Although plan 2 attached to the enforcement notice refers to other buildings to the rear of the appeal property, and the Delegated Enforcement Report alleges Breach of Conditions (BOC) imposed on planning permission Ref: P/4409/16, these are matters that lie outside the scope of the appeals before me which solely relate to an outbuilding referred to as outbuilding D on plan 2. I have determined the appeals on this basis.
2. When the appeals were lodged, they included grounds (a) and (g). However, I have also considered the appeals under ground (c) based on the appellants' submissions.

The appeals on ground (c)

3. This ground is concerned with the consideration that the matters alleged in the notice do not constitute a breach of planning control. The onus of proof here lies with the appellants. The case put by the appellants is that they were not aware that planning permission was needed for the building built as they thought that it could be built under permitted development (PD).

4. Planning permission was granted in 2016 to convert the dwelling into two flats. A completion certificate was issued by the Council's Building Control section in November 2017. The property, therefore, had been converted into two flats by the time that outbuilding D was erected. Flats do not fall within the meaning of a 'dwellinghouse' as set out in The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). Therefore, they do not benefit from the provisions of Schedule 2, Part 1, Class E of the GPDO as the entitlement relates solely to dwellinghouses. As such, a breach of planning control has occurred and the appeals on ground (c) fail.

The appeals on ground (a)/the deemed planning applications

5. The main issues for Appeals A, B and C are the effect of the development on:
 - a) the character and appearance of the area; and
 - b) the living conditions of neighbouring properties, with regards to outlook.

Character and appearance

6. The appeal property is at the end of a short cul-de-sac containing two storey residential properties with long linear rear gardens. The rear gardens are not visible from the public domain other than glimpsed views between properties, though there are views into them from neighbouring properties. Many of the properties in the road have detached outbuildings within their rear gardens. These vary in size, style, design and finish but they are generally single storey in height with the remaining parts of the gardens typically landscaped.
7. Outbuilding D is a tall single storey pitched roof building that is used as a home gym. It is positioned away from the extended rear elevation of the flats at No. 11 and in from both flank boundaries. In comparison to the size of the rear garden, it occupies only a modest part of it. The garden between outbuilding D and the flats is mainly grassed, but hard surfaced around the rear elevation of the property. To the rear of outbuilding D is a further area of garden, though I note the alleged BOC concerning its layout. However, despite this, I consider the siting, height, width, depth, scale and bulk of outbuilding D responds well to the varied nature of outbuildings found within rear gardens in the area and their relationship with the host properties. There is adequate space within the garden to ensure it does not constitute a cramped form of development. Moreover, outbuilding D has little wider effect on the area's character and appearance.
8. I conclude, in respect of this issue, that outbuilding D accords with Policy DM1 of the Harrow Council Development Management Policies (DMP) and Core Policy CS 1 of the Harrow Core Strategy as its design, massing, bulk, scale, height and layout respond to local character and pattern of development in gardens and ensure that appropriate space around it has been retained.

Living conditions

9. The closest residential occupants to outbuilding D live in the adjoining property at 9 Coombe Close. The rear elevation of No. 9 has been extended at ground floor and there is a glazed patio door and a window in this extension. On the first floor there are two windows. All the openings in the rear elevation of No. 9 face into its rear garden and in a south-westerly direction.
10. Although the building is tall for a single storey form of construction, it is set away from the party boundary and a good distance from the rear elevation of

No. 9. Shrubs and a timber fence line the initial section of boundary before a tree and a low wire fence. Outbuilding D is set slightly back from a single storey flat roof outbuilding in the rear garden of No. 9. Having regard to the relationship to No. 9 and the character of the area, I consider that the occupants of No. 9 have an adequate outlook. This view is reinforced by the orientation of No. 9's windows and the little, if any, bearing that the building subject of the notice has on overlooking or light provision.

11. As there is a school playing field to the north, there are no living conditions implications from outbuilding D in this direction.
12. I therefore conclude on this issue that the proposal accords with DMP Policy DM1, Policy D3 of The London Plan and the Supplementary Planning Document Residential Design Guide; which collectively seek development proposals to deliver an adequate/appropriate outlook within buildings.

Conclusions on ground (a)

13. Given my findings on both main issues, I conclude that Appeals A, B and C should succeed under ground (a) and planning permission granted.

The appeals on ground (g)

14. As I have found the building to be acceptable under ground (a) and granted planning permission on this basis, it is not necessary for me to consider the ground (g) appeals lodged.

Conclusions

15. For the reasons set out above, I conclude that the appeals should be allowed and the enforcement notice quashed. I shall grant planning permission on the applications deemed to have been made under section 177(5) of the Act.

Formal Decisions

16. Appeals A, B and C are allowed under ground (a) and the enforcement notice is quashed. Planning permission is granted on the applications deemed to have been made under section 177(5) of the Act for operational development consisting of an outbuilding on the land identified as "outbuilding D" shown hatched in black on the annexed plan marked "plan 2 at land at 11 Coombe Close, Edgware HA8 6BA.

Andrew McGlone

INSPECTOR