



Appeal Decisions

Site visit made on 30 November 2022

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 16 December 2022

Appeal A Ref: APP/T5150/C/22/3290392

22 Coniston Gardens, LONDON, NW9 0BD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Krystian Adamczyk against an enforcement notice issued by London Borough of Brent.
 - The notice, numbered E/18/0782, was issued on 3 December 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of an outbuilding to the rear of the premises.
 - The requirements of the notice are STEP 1 Demolish the outbuilding from the rear of the premises. STEP 2 Remove all items and debris, arising from that demolition, and remove all materials associated with the unauthorised development from the premises. STEP 3 Reinstate the land to its condition before the unauthorised development took place.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f) 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.
 - A similar appeal without the ground (a) has been made by Ms Agnieszka Twers-Adamczyk (APP/T5150/C/22/3290393)
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Decisions

APP/T5150/C/22/3290392

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 erection of an outbuilding to the rear of the premises at 22 Coniston Gardens, London, NW9 0BD as shown on the plan attached to the notice.

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2. The appeal is dismissed.

Preliminary Matters

3. The outbuilding is a sort of Swiss-cottage style wooden building used as a den and store. It is built at the bottom of a modest garden and has a steeply pitched roof and a covered verandah at the front, facing up the garden towards the house, with a picnic bench on it.

The Appeal on Ground (d)

4. This ground is that the building was substantially completed on or before 4 years from the date of the notice. That is before 3 December 2017. The appellant says he removed an old shed and laid foundations for the new structure in 2011. He is a carpenter by trade and finished the roof in 2015 when the use began.
5. However, photographs provided by the Council from Streetview and aerial photographs from Google clearly show there was no roof in place in 2018, and possibly no building at all. Streetview shows a roof in 2019, but it looks different to the finished version I saw on site and the aerial photographs, while less clear appear to show something there in 2019, but clearly show the finished building in 2020. This suggests to me it was in the process of being built in 2019 and not completed until 2020. The appellant suggests the dates cannot be relied on, but as they corroborate each other, and I have no other specific evidence, I cannot conclude that on the balance of probability the building was completed by December 2017. The appeal on ground (d) fails.

The Appeal on Ground (a)

6. The reasons for issuing the notice say the building is overbearing, obtrusive, out of character and harms neighbours' amenities. A number of policies have been referred to by the Council. BH12 prevents outbuildings being used for residential purposes and that is not the case here. BH13 requires sufficient amenity space to remain, and the garden is easily big enough to accommodate this modest building. These two emerging policies mirror the existing DMP18 and 19. The existing DMP1 is not directly relevant whereas the emerging DMP1 requires development to have a high level of external amenity and complement the locality. CP17 of the Core Strategy is the most relevant as it requires garden buildings not to be out of scale and to respect the setting of existing dwellings.
7. The roof of the building is certainly visible from neighbours' gardens but it has a steep pitch and is not overbearing. Although currently the neighbour to the west has no sheds aerial photographs show until recently there was a shed with a similar footprint to the appeal building in the same location. Indeed most of the back gardens have sheds or outbuildings of some sort. While the design might be considered to be somewhat whimsical, compared to most utilitarian garden structures it is well made and attractive. It is difficult to see what harm there is to neighbours' amenities and there is no suggestion that the use is not incidental to that of the main dwelling.
8. I shall allow the appeal and grant planning permission for the structure. As it causes no harm there is no need for any conditions restricting further permitted development structures. The appeal on ground (f) does not need to be considered. To avoid confusion I shall dismiss the appeal on 3290393.

Simon Hand

INSPECTOR