
Appeal Decisions

Site visit made on 21 December 2022

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 03 January 2023

Appeal Ref: APP/B3030/C/22/3298604 ('Appeal A')

1 Bayford Drive, Newark NG24 2GS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr John Proctor against an enforcement notice issued by Newark & Sherwood District Council.
- The enforcement notice, numbered 22/00022/ENFC, was issued on 14 April 2022.
- The breach of planning control as alleged in the notice is *Without planning permission, the undertaking of operational 'development' – that being the erection of an outbuilding forward of the principal elevation (subject of refused planning application reference 22/00280/HOUSE and shown in Image 1).*
- The requirements of the notice are to completely dismantle and remove from the Land the 'development' (outbuilding) – as shown in image 1.
- The period for compliance with the requirements is 14 weeks.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (c) of the Town and Country Planning Act 1990 as amended.

Summary Decision: The appeal is dismissed and the enforcement notice upheld.

Appeal Ref: APP/B3030/W/22/3298830 ('Appeal B')

1 Bayford Drive, Newark NG24 2GS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr John Proctor against the decision of Newark & Sherwood District Council.
- The application Ref 22/00280/HOUSE, dated 5 February 2022, was refused by notice dated 13 April 2022.
- The development proposed is described in the Council's decision notice as erection of home gym (retrospective).

Summary Decision: The appeal is dismissed.

Preliminary Matters

1. A more detailed description of the proposed development in Appeal B was given on the application form, referring to pre-existing development in the same spot. Nonetheless the Council's description of the proposal, repeated in the banner heading above, is an accurate one, and I shall consider the appeal on this basis.
2. A second appeal against the enforcement notice, registered under reference APP/B3030/C/22/3298605 by a different appellant, is not proceeding.

Main Issues

3. The Appeal A appeal on ground (c) raises the question whether planning permission is required for the development, or has already been granted if it is. If that ground does not succeed, then the Appeal A appeal on ground (a) and the Appeal B appeal raise the same issues, concerning the planning merits of the development.
4. The Council gave a single reason for refusing planning permission, finding the development to be an intrusive feature out of character with the open character and distinctiveness of the surrounding area. The enforcement notice was issued for an identical reason. Therefore the main issue in both appeals concerns the effects of the development on the character and appearance of the area, and its compliance with the Development Plan for the area in that respect and whether any material considerations are raised that indicate a decision other than in accordance with the Development Plan.

Reasons

The Appeal A appeal on ground (c)

5. No cogent reasons are put forward to suggest why the development does not require permission. The appellant points out that the outbuilding replaces a fence, playhouse and smaller shed previously located in the same position. None of that would mean that permission was not required to replace those structures with the present outbuilding. The appeal on ground (c) does not succeed.

The Appeal A appeal on ground (a) and the Appeal B appeal

6. The relevant Development Plan policies cited by the Council are Core Policy 9 (Sustainable Design) of the Newark and Sherwood Amended Core Strategy of 2019, and Policies DM5 (Design) and DM6 (Householder Development) of the Allocations and Development Management DPD of 2013. Reference is also made to the Council's Householder Development supplementary planning document ('SPD') of 2014, as well as to national policy in the form of the National Planning Policy Framework.
7. The Development Management Policies DM5 and DM6 together require that householder developments will be acceptable provided that they respect the character of the surrounding area and the design of the host dwelling. The supporting Householder Development SPD advises that outbuildings should be domestically proportioned and not introduce dominant features.
8. Policy DM6 applies six criteria to the erection of curtilage buildings (and other householder developments) directed at preserving the living conditions of residents and neighbours, and of the character of the area. Criterion 6 requires any proposal to respect the character of the surrounding area including its local distinctiveness. The policy goes on to say that the methods by which the policy criteria will be assessed will be set out in an SPD.
9. The SPD goes on to advise that poorly designed and sited outbuildings can give rise to detrimental impacts on the appearance of host dwellings and the character of the surrounding area. Particular care needs to be taken where outbuildings are to be sited in front of a property, where it is more likely to result in the introduction of an overly dominant feature, and to detrimentally

impact on the character of the surrounding area, especially where this type of development is presently absent.

10. Observing the residential estate, on the approach roads to the property there are few examples of roadside sheds, and some high fences mainly constructed of bricks and wood. The properties are mostly detached dwellings set facing the approach roads or in culs-de-sac with frontages some distance away from the roads, and mainly open front gardens. The immediate approach to the property's frontage along Newbury Road sees a low wall separating the road from the dwellings on the left, set away from the road, and an area of parkland and children's playground to the right.
11. Immediately separating the appeal property from its neighbour on Newbury Road is a 1.8m high wooden fence set at a right-angle to the road. The outbuilding in question lies behind this fence (on this approach) and to the left (and forward) of the detached (brick-built and part-rendered) house at the appeal site.
12. The outbuilding, a rectangular flat-roofed wooden structure, protrudes above the fence by around half a metre and, despite the existence of the fence and of some intervening vegetation, is conspicuous on both approaches, as well as from the playground area opposite.
13. Although highly visible in the front garden of the house, I do not find the structure to particularly dominate the dwelling, contrary to the policy and SPD requirements. It is not an especially large structure compared with the dwelling to which it relates. I do however consider it to be out of character with the host property and the surrounding area.
14. Wooden structures are not generally found on the estate; the predominant form of outbuildings is of brick-built garages, with wood mainly being used in fences but not otherwise. Flat-roofed structures are not characteristic of the estate. Nor are outbuildings in properties' front gardens, save for any brick garages although these do not appear on this stretch of the frontage to Newbury Road/Bayford Drive where the frontages are otherwise undeveloped.
15. Therefore, although its siting next to the boundary fence goes some way to alleviate the impact of its appearance, I am unable to find that it is consistent with respect for the character of the local area or with the local distinctive attributes of open frontages and the absence of flat-roofed wooden structures. The development does not comply with policy DM6 or with the Development Plan for the area.

Other considerations

16. Although the Council also draw attention to the need for householder developments to produce acceptable results to neighbouring living conditions, any impacts on the neighbours were not a reason for refusing permission or issuing the notice, and no particular adverse impacts are brought to my attention. Therefore I do not find that the impact of the development on neighbouring living conditions to be a reason to dismiss the appeal.
17. The appellant also raises the personal benefit to him and his family of the outbuilding, which is used as a home gym. None of these assertions are supported by any independent medical evidence and I give them little weight. Nor has it been adequately explained why the particular asserted needs would

require this particular building rather than any other form of development which might comply with the Development Plan for the area.

18. Therefore, although accepting these matters as material considerations in the case, and noting too the support given by neighbouring residents, they are insufficient to disturb my conclusions or to cause me to reach a decision otherwise than in accordance with the Development Plan.

Conclusions

19. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application in Appeal A, and shall dismiss the appeal in Appeal B.

Formal Decisions

Appeal A

20. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

21. The appeal is dismissed.

Laura Renaudon

INSPECTOR