



Appeal Decision

Site visit made on 6 September 2023

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2023

Appeal Ref: APP/Y5420/C/23/3321275

105 Willingdon Road, Wood Green, London N22 6SE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Christian Theodorou against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The notice was issued on 28 March 2023.
 - The breach of planning control as alleged in the notice is the erection of an outbuilding.
 - The requirements of the notice are:
 1. Remove the unauthorised outbuilding in its entirety.
 2. Remove from the land any debris resulting from carrying out steps 1), 2) above.
 - The period for compliance with the requirements is: Three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (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. It is directed that the enforcement notice is corrected by:
 - In section 5 the deletion of step 2 in its entirety and substituting instead "Remove from the land any debris resulting from carrying out step 1 above".
 - In section 6 the deletion of "2 August 2023" and substituting instead "Three months from the date this notice takes effect".
2. It is directed that the enforcement notice is varied by:
 - In section 5 at step 1, before the word "Remove" the insertion of the word "Either", and after the word "entirety" the insertion of the words "or alter the outbuilding so that it complies with the terms of planning permission reference HGY/2023/0923, including approved drawing number WR PA 01 C."
3. Subject to the above corrections and variations, the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under s177(5) of the 1990 Act as amended.

The Notice

4. It is important for me to get the notice in order. On an appeal any defect, error, or misdescription in an enforcement notice may be corrected using the powers available in section 176(1)(a) of the Town and Country Planning Act 1990 as amended (the 1990 Act), or the terms varied, where the correction or

variation will not cause injustice to the appellant or the local planning authority.

5. The compliance period in section 6 of the notice is expressed as a specific date rather than a period of time. The date given is 2 August 2023 which would have given a compliance period of three months from the date that the notice would have taken effect if an appeal had not been lodged (2 May 2023). A compliance period of three months is further stated under step 2 in section 5 of the notice. Nevertheless, it is clear from the ground (g) appeal that the appellant is fully aware of the compliance period. There is also an error within step 2 in section 5 where it refers to "steps 1), 2) above" when there is only step 1 above.
6. In the interests of precision and clarity I shall correct section 5 of the notice by ensuring it only refers to "step 1 above". I shall also delete any reference to the period for compliance from this section. In section 6 I shall delete the specific date given and replace it with "Three months from the date this notice takes effect". I can undertake these corrections using the broad powers available to me under section 176(1) of the Act, without causing injustice to the parties.

Ground (a) and the deemed planning application

Background and Main Issues

7. A retrospective planning application¹ for the outbuilding was refused by notice on 11 July 2022. A subsequent appeal² against the refusal to grant planning permission was dismissed on 3 March 2023. The Inspector in the previous appeal concluded that the development caused harm to the character and appearance of the area, and to the living conditions of neighbouring residents in respect of the potential for noise and disturbance. The Council has incorporated these as the reasons for issuing the notice.
8. Therefore, the main issues are the effect of the development on:
 - The character and appearance of the area; and
 - The living conditions of occupiers of neighbouring residential properties, with particular regard to the potential for noise and disturbance.

Reasons

Character and Appearance

9. 105 Willington Road is a mid-terraced property located within a residential area consisting of predominately terraced housing of various styles. The property has been sub-divided into six flats and includes a narrow garden area to the rear which backs onto Russell Park, a community recreation area.
10. The outbuilding is located at the back of the rear garden and is constructed in blockwork with a brick skin to the front elevation. It extends virtually the full width of the garden and measures approximately 5.12m by 5.79m. Although its roof has not yet been constructed, the outbuilding is around 2.8m in height

¹ Council Reference: HGY/2022/1363

² APP/Y5420/W/22/3304944

which results in it extending above the height of the boundary fences between the appeal site and numbers 103 and 107 Willingdon Road.

11. The appellant argues that when compared to both the host property and the garden area itself, the size and scale of the outbuilding is not excessive and is proportionate to the host property and the appeal site. However, whilst the outbuilding takes up less than 50% of the total area around the house, it dominates the rear garden and appears excessively large.
12. The outbuilding, by reason of its siting in the back garden, is not visible from Willingdon Road and therefore it has no effect on the appearance of the street scene. However, in this dense residential area the back gardens assist in creating a sense of spaciousness. This contrast between the street and the more private garden areas behind adds positively to local character. The erection of the outbuilding has resulted in over-development of the appeal site at the back of the house which fails to respect this quality.
13. Although the appellant has referred to outbuildings at other nearby properties, including 93 Willingdon Road, during my site visit I saw no evidence to suggest that large outbuildings were common or typical of local character. I have also considered the appellant's suggestion that a planning condition could be attached requiring the height of the outbuilding to be reduced to 2.5m. Similarly, it is suggested that white painted render could be added to the blockwork on the side and rear elevations to improve its appearance. Whilst these actions would represent minor improvements, they would not overcome the harm caused by the buildings excessive scale and mass.
14. In view of the above, I conclude that the development is harmful to the character and appearance of the area. Therefore, in relation to this main issue, the development is contrary to Policy D3 of the London Plan 2021, Policy SP11 of Haringey's Local Plan Strategic Policies 2013-2026 (2017), and Policies DM1 and DM12 of the Haringey Development Management DPD (adopted July 2017) (DPD). These seek, amongst other things, to ensure that developments achieve high quality design that respect the site and area.

Living Conditions

15. The outbuilding is proposed to be used by occupants of the host property as a laundry room and as storage space for personal items such as cycles and garden paraphernalia. Since the previous appeal, the appellant has confirmed that the outbuilding would contain either one washer and one dryer, or alternatively a single combined washer/dryer.
16. Although No. 105 has been sub-divided into six flats, I do not share the opinion that this would result in the number of movements to and from the outbuilding being significantly different to a large single family occupying the property, or beyond what would reasonably be expected in a residential area.
17. I also do not consider it to be uncommon for washing machines or dryers at residential properties to be located in garages or outbuildings. Though the sub-division of No. 105 into six flats may give rise to a more regular use of the washer and dryer, the presence of a single washer and dryer is highly unlikely to give rise to unacceptable levels of noise or noise levels above those usually associated with a residential property. This would further be mitigated by the

outbuilding's solid construction and its location at the back of the garden at the furthest point away from neighbouring properties.

18. I therefore do not find that the development would result in harm being caused to the living conditions of occupiers of neighbouring residential properties, with regard to noise and disturbance. As such, in regard to this main issue, the development accords with Policies DM1, DM7 and DM12 of the DPD which seek, amongst other things, to ensure a high standard of amenity for the development's users and neighbours.

Conclusion on ground (a)

19. While I have found that the development would not result in harm being caused to the living conditions of neighbouring residents, the development is harmful to the character and appearance of the area. The development therefore conflicts with the development plan when considered as a whole and there are no material considerations that outweigh the harm identified and the associated development plan conflict.
20. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal on ground (a) fails and the deemed planning application is refused.

Ground (f)

21. The appeal on ground (f) is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
22. Section 173(4) of the Act sets out the purposes which an enforcement notice may seek to achieve, either wholly or in part. These are either (a) to remedy the breach of planning control that has occurred, or (b) remedying any injury to amenity which has been caused by the breach. In this case, the requirements of the notice are to remove the unauthorised development in its entirety. The purpose of the notice must therefore be to remedy the breach of planning control.
23. The courts however have held that if there is an obvious alternative to demolition which would overcome planning difficulties at less cost and disruption, then I should consider it. In this case, in May 2023 planning permission³ (2023 permission) was granted for a smaller outbuilding with reduced width and depth. There is no dispute that this permission is extant given its recent date.
24. This alternative would overcome the harm I have identified in the ground (a) appeal. There would also be less cost and disruption than total demolition, as the appellant would be able to utilise part of the existing structure and would not have to rebuild the whole outbuilding again just to implement the extant scheme.
25. As such, under section 176(b) of the 1990 Act, I will vary the notice to amend the requirements to require either the removal of the outbuilding in its entirety,

³ Council Reference: HGY/2023/0923

or that the outbuilding shall be altered so that it complies with the 2023 permission. The appellant therefore has the choice of which course of action to take and I can carry out the variations without injustice to the parties.

26. The appeal on ground (f) therefore succeeds to this extent.

Ground (g)

27. Ground (g) is that the time given to comply with the requirements of the notice is too short. The notice specifies a period of three months after the notice takes effect.

28. The appellant argues that if the appeal under ground (a) was not successful and the requirements of the notice were not varied to allow the modification of the existing structure, then a period of six months would be required to raise the necessary funds and to find a competent builder to carry out the works.

29. However, given my findings on ground (f) above the appellant will now have the option to modify the existing structure. This will assist in reducing both the cost and time it will take to carry out the works. An extension to the period given to comply with the requirements of the notice is therefore not necessary.

30. Accordingly, the appeal on ground (g) fails.

Conclusion

31. For the reasons given above I conclude that the appeal does not succeed, save for ground (f). I have upheld the enforcement notice with corrections and variations and refuse to grant planning permission on the deemed application.

David Jones

INSPECTOR