



Appeal Decisions

Site visit made on 10 October 2023

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st November 2023

Appeal A Ref: APP/F5540/C/21/3289200

Appeal B Ref: APP/F5540/C/21/3289201

51 Grove Crescent, Feltham TW13 6NB

- 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 Act).
 - The appeal is made by Mr & Mrs Surinder Kanda (3289200) and Mr Mohit Kanda (3289201) against an enforcement notice issued by London Borough of Hounslow.
 - The notice was issued on 15 November 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised construction of an outbuilding.
 - The requirements of the notice are to:
 - i. Demolish the Outbuilding
 - ii. Remove all resultant debris from the Land
 - The period for compliance with the requirements is 3 months.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (b) and (c) of the Act. 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. Appeal B is proceeding on the grounds set out in section 174(2)(b) and (c) of the Act.
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Decision

1. Appeal A 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 Act for the development already carried out, namely the construction of an outbuilding at 51 Grove Crescent, Feltham TW13 6NB as shown on the plan attached to the notice.

Appeals on ground (b)

2. An appeal on ground (b) is a claim that the matters stated in the notice (which may give rise to the breach of planning control) have not occurred as a matter of fact. The onus of proof in ground (b) appeals is on the appellant and the test of the evidence is on the balance of probability.
3. The appellants evidence confirms that the constructed outbuilding is not in accordance with permission 00524/51/P11, illustrating that dimensions of the outbuilding are different and that the overall footprint is 3.6 square metres (sqm) larger than the approved outbuilding. There is no compelling evidence that indicates that the additional 3.6 sqm was built as an extension to an outbuilding and from what I saw at my site visit it is clear that the outbuilding at the appeal site is the unauthorised development described in the notice. The construction of an outbuilding has therefore occurred, and the appeals on ground (b) fail.

Appeals on ground (c)

4. An appeal on ground (c) is that the matters alleged at section 3 of the notice, if they occurred, do not constitute a breach of planning control. The onus of proof in ground (c) appeals is on the appellant and the test of the evidence is on the balance of probability.
5. As stated above, the appellant accepts that the outbuilding is not in accordance with permission 00524/51/P11 due to an increase in floorspace. No compelling evidence has been presented which identifies that the outbuilding benefits from any other planning permission. The appellant has failed to demonstrate that the outbuilding is not a breach of planning control and the appeals on ground (c) fail.

Appeal A on ground (a)

6. The ground of appeal is that planning permission should be granted for the matter alleged in the notice.

Main issues

7. The main issues are the effect of the development on (i) the character and appearance of the surrounding area; and (ii) the living conditions of the occupiers of neighbouring properties in terms of privacy, light, outlook and use.

Reasons

Character and appearance

8. The area surrounding the appeal site is predominantly residential. Properties in the area have large rear gardens with many having outbuildings of various styles and sizes. It is the surrounding pattern of development which includes rear outbuildings that contribute to the character of the area.
9. The primary difference between the approved outbuilding and the appeal building is that the floorspace of the appeal building is around 3.6 sqm larger. Under permission 00524/51/P11, the Council found that the approved outbuilding was of an appropriate scale and design that would not be out of character with the surrounding area.
10. The additional 3.6 sqm of floorspace is not highly noticeable within the surrounding area. There are concerns that the outbuilding has a lack of set in's, however, from the evidence before me it appears that the width of the building is similar to that approved in permission 00524/51/P11. The appearance of the outbuilding is almost indistinguishable to the approved plans of permission 00524/51/P11. The additional 3.6 sqm of floorspace to the outbuilding does not significantly alter the subservient relationship between the outbuilding and the main house. The outbuilding, given its scale and design, is not an overbearing or intrusive feature and is not out of keeping with the built form and pattern of development in the area.
11. My attention has been drawn to a dismissed appeal¹ for an outbuilding at the appeal site. This appeal decision pre-dates planning permission 00524/51/P11 and as such, I find that that the decision does not add any significant weight against allowing the appeal.

¹ Planning Inspectorate reference: APP/F5540/D/19/3222906

12. Accordingly, the development is not harmful to the character and appearance of the surrounding area. It is not contrary to the aims of Policies CC1, CC2 and SC7 of the London Borough of Hounslow Local Plan (LP) and the Residential Extension Guidelines (REG) which seek to maintain the character of an area and not result in harm to the built environment.

Living conditions

13. The outbuilding is located to the rear of the garden area and is a substantial distance from neighbouring properties. Due to the scale, height, design and positioning of the outbuilding, it does not have an adverse effect on the living conditions of neighbouring occupiers in terms of loss of privacy, light and outlook.
14. The appellant states that the outbuilding is intended to be used by a member of the family during the day and will return to the main house for sleeping purposes. At my site visit, I saw that the outbuilding had three rooms, one of which was a shower room with toilet and sink, one used for storage and the largest room contained gym equipment. There was no compelling evidence that there were kitchen or bedroom facilities in the outbuilding.
15. The Council state in their evidence that they are concerned that the outbuilding could facilitate a separate residential unit, although this has not been alleged in the breach of planning control within the enforcement notice. Whilst the outbuilding does have a shower room, it is not a separate dwelling as users of the building must return to the main house to use essential living facilities such as kitchen and bedrooms. The outbuilding is within the same planning unit as the main house and is used as additional living space. On this basis the outbuilding does not have an incidental use but is in fact used for residential purposes that are integral to the residential use of the main house. As the outbuilding is being used by occupiers of the main house, there is not an increase in the level of activity that adversely compromises the privacy or outlook of neighbouring occupiers.
16. At my site visit I saw external lights and a CCTV camera positioned on the outbuilding. These were typical residential style lights and a camera that are not unexpected features on residential properties, and they would not therefore have any detrimental effects on the living conditions of surrounding occupiers in terms of privacy or light disturbance.
17. The outbuilding does not have a harmful effect on the living conditions of occupiers of neighbouring properties in terms of privacy, light, outlook, and use. It is not contrary to the aims of Policies CC2 and SC7 of the LP and the REG which seeks development to not result in harm to the amenities of neighbouring residents and not create an independent residential unit.

Other matters

18. I have had regard to comments raised by occupiers of neighbouring properties including matters relating to services to the building, access for emergency services, the planning history of the site and devaluation of properties. These matters do not alter my findings on the main issues and some of these are not necessarily planning considerations. These matters do not lead me to a conclusion that the outbuilding is a harmful development.

Conclusion

19. The outbuilding does not conflict with the development plan as a whole and there are no other considerations, including the provisions of the National Planning Policy Framework, which outweighs this finding.
20. Therefore, for the reasons given above, I conclude that Appeal A on ground (a) succeeds and that planning permission should be granted.

Chris Baxter

INSPECTOR