



Appeal Decision

Site visit made on 10 October 2023

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th December 2023

Appeal Ref: APP/F5540/C/22/3297155

215 Brabazon Road, Hounslow TW5 9LW

- 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 S.S. Bisla against an enforcement notice issued by the Council of the London Borough of Hounslow.
 - The notice was issued on 17 March 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a second rear canopy extension and the erection of an outbuilding.
 - The requirements of the notice are to:
 - i. Demolish the second rear canopy extension shown cross-hatched black on the attached plan
 - ii. Demolish the outbuilding shown cross-hatched black on the attached plan
 - iii. Remove all resultant debris from the Land
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (f) 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.
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Decision

1. The enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Preliminary Matter

2. Since the enforcement notice was issued, the roof of the second rear canopy has been removed although I saw at my site visit that the posts of the canopy were still in place. I have dealt with the appeal accordingly.

Appeal on ground (c)

3. An appeal on this ground is a claim that the matters alleged in the notice, if they occurred, do not constitute a breach of planning control. The burden of proof falls on the appellant and the relevant test of the evidence is on the balance of probabilities.
4. The appellant contends that the outbuilding alleged in the notice falls under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). Paragraph E.1(b) of the GPDO states that development is not permitted by Class E if the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse).
5. There are a number of existing buildings within the appeal curtilage, beyond that of the original dwellinghouse. The appellant and the Council have both

provided separate calculations of all the buildings on the site to calculate whether the outbuilding when totalled with all the other development exceeds 50% of the total area of the curtilage.

6. The appellant calculates that the area of the outbuilding when totalled with all the other development within the site does not exceed 50% of the total area of the curtilage. The Council's calculations result in the total area of development exceeding the 50% mark. The main discrepancies in the parties' calculations relate to the area of the original dwellinghouse, the outbuilding subject of the notice, other existing outbuildings, and the front and rear garden spaces.
7. At my site visit, measurements of the site and buildings were undertaken and agreed by representatives for the appellant and the Council. Based on the agreed measurements, the total area of ground covered by buildings, including the outbuilding subject of the notice, within the curtilage of the site (other than the original dwellinghouse) does exceed 50% of the total area of the curtilage. For clarity, as the roof of the second rear canopy extension was removed at the time of my visit, measurements of this structure have not formed part of the above calculations.
8. The outbuilding does not meet the criteria described in paragraph E.1(b) of the GPDO and is not permitted development. Since it does not benefit from any other planning permission it thereby constitutes a breach of planning control. Therefore, the appeal on ground (c) fails.

Appeal on ground (a)

9. The ground of appeal is that planning permission should be granted for a second rear canopy extension and an outbuilding.

Main issues

10. The main issues are the effect of the development on the character and appearance of the surrounding area and whether the living conditions of the occupiers of the appeal property would be adversely affected in terms of private amenity space.

Character and appearance

11. The area surrounding the appeal site is characterised predominantly by semi-detached residential properties with large rear garden areas. There are additions to properties in the area as well as modest sized outbuildings in the rear gardens areas of neighbouring properties. It is this built form of outbuildings being modest in size which contributes to the character of the area.
12. The outbuilding subject of the notice is set back from the boundary wall and given its height, it is visible from the surrounding area, particularly from neighbouring properties. The outbuilding, when viewed with the existing extensions to the appeal property and existing buildings in the rear garden, appears as a dominant cluttered feature that detracts from the built form of the area.
13. There are other outbuildings of different styles in the immediate area however, these are modest in scale and sympathetic to the built development. The outbuilding subject of the notice, due to its size and relationship with

immediate extensions and additions, is out of keeping with the scale and pattern of development in the area.

14. The second rear canopy extension was a large and discordant feature that was visually intrusive within the surrounding area. At my site visit I saw that the roof of the canopy had been removed. The posts of the canopy which hold the roof remained on the site. These posts are tall and incongruous features that have a detrimental effect on the appearance of the immediate locality.
15. Having regard to all these factors I conclude that the development alleged in the notice has a harmful effect on the character and appearance of the surrounding area. The development is contrary to Policies CC1, CC2 and SC7 of the London Borough of Hounslow Local Plan (LP) and the Councils Design Guidance for Extensions and Alterations which seeks extensions and alterations to maintain the character of the area.

Living conditions

16. Policy SC5 of the LP states that for houses with 5 habitable rooms and over 75 square metres (sqm) of useable amenity space should be provided. The appellant states that the amount of amenity space is below this 75sqm figure.
17. Whilst there is public open space in the vicinity of the appeal site, private and useable amenity space with a property is essential to meet the demands of everyday life for residential occupants. The lack of quality private and useable amenity space within the appeal site will adversely affect the living conditions of the existing occupants and future occupants of the appeal site.
18. For these reasons I find that the development has a harmful effect on the living conditions of occupiers of the appeal site with regards to private amenity space. The development is contrary to Policies SC5 and SC7 of the LP which seeks development to ensure suitable external space.

Conclusion on ground (a)

19. The development conflicts with the development plan as a whole and with the provisions of the National Planning Policy Framework. There are no other considerations which, by themselves or cumulatively, lead me to reach any other conclusion.
20. The appeal on ground (a) therefore fails.

Appeal on ground (f)

21. An appeal on ground (f) is that the requirements of the notice exceed what is necessary in order to remedy the breach of planning control or, as the case may be, the injury to amenity that is caused by the breach. In this case the notice requires all of the development to be removed, hence the purpose of the notice is to remedy the breach.
22. The appellant argues that the requirements are excessive given the second rear canopy extension is to be removed and that the outbuilding is permitted development.
23. The roof of the second rear canopy extension has been removed however, parts still remain, in particular the posts. As detailed under ground (c) the

outbuilding is not permitted development and the appeal on ground (a) is dismissed as set out earlier.

24. Given that in respect of the breach of planning control the notice requirements are to completely remove all of the development, it is clear that the requirements clearly go no further than remedying the breach. Anything less than removal would not fully remedy the breach.
25. Accordingly, I conclude that the requirements of the notice are not excessive and the appeal on ground (f) fails.

Chris Baxter

INSPECTOR