



Appeal Decision

Site visit made on 28 August 2024

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2024

Appeal Ref: APP/E5330/C/23/3325947

309 Wickham Lane, London SE2 0NT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act). The appeal is made by Mr Sagar Thapa against an enforcement notice issued by Royal Borough of Greenwich.
 - The notice was issued on 19 June 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission the unauthorised development of a concrete paved parking area, with new retaining walls, new steps up and a wheelie bin area to the front of the property, as shown in Photograph B attached to this notice ("the unauthorised development").
 - The requirements of the notice are to:
 - 5.1 Remove from the Property the concrete paved parking area, the retaining walls, and the wheelie bin area.
 - 5.2 Remove from the Property all building materials and rubble arising from compliance with requirement (5.1) above, and restore the Property to its condition before the Unauthorised Development took place as shown in Photograph A which shall for the avoidance of doubt include raising the garden height back to the level prior to the Unauthorised Development as shown in Photograph A.
 - The period for compliance with the requirements is 6 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. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. The appellant's name was not spelled correctly on the appeal form. I have used the spelling as was confirmed by the appellant in later correspondence.

The Appeal on ground (a)

3. Under this ground of appeal, I have to consider whether planning permission

ought to be granted for the matters stated on the notice as the breach of planning control. The appellant has referred to developments related to the parking area including a dropped curb between the footway and the carriageway of the road. However, the deemed planning application and appeal under ground (a) can only relate to the unauthorised development as alleged on the enforcement notice and that is the development which there is no dispute, has already taken place. The dropped curb is not therefore part of my considerations under ground (a).

4. The Council had refused planning permission for a development with a similar description as that alleged on the notice at this property in June 2023. An appeal against that refused planning application was dismissed in May 2023 (Appeal Ref: APP/E5330/D/22/3313985).

Main issue

5. The main issue is the effect of the development on pedestrian and road safety.

Reasons

6. The appeal site includes a semi-detached dwelling in a mainly residential area containing a number of similar properties some of which have parking areas accessed from the busy Wickham Lane. There is a substantial amount of on-street parking in the area as well including directly in front of the site when I visited.
7. The Council refer to the parking area being 3.9m deep and 4.45m wide. The drawings which are included within the appellant's statement, although a little unclear, appear to confirm that. This is substantially below the 4.8m depth required normally by the Council for parking hardstand areas. The Council seeks to avoid cars over-hanging the footway. The appellant has referred to the average city car being between 3.46m to 3.601m meaning that such a car could be positioned on this parking area without over-hanging the footway. Even if that is the case and if this could be ensured through a planning condition, as suggested by the appellant, the retaining walls tightly enclose the space and come all the way up and at full height, to the immediate rear edge of the footway. A driver of a vehicle exiting the site in a forward direction would have little visibility of pedestrians approaching in either direction along the footway because their view would be obscured by the retaining walls. Furthermore, this would be even worse if the car was reversing out of the space when a driver would not be able to see approaching pedestrians and would have to strain to see approaching vehicles in the road. Added to this, the drivers of vehicles driving out of the space onto the busy road would have visibility further obscured by vehicles parked on the street.
8. The retaining walls therefore provide a limitation to visibility for drivers of vehicles entering or leaving the parking areas. People walking along the footpath also have a limited view of vehicles within the parking space. These problems are even more significant for those who are shorter than the walls, including young children, who are most vulnerable to cars being driven in and out of the space. Furthermore, it would not be possible in my view to enforce a planning condition limiting the type of vehicle that uses the space as suggested. If residents or their visitors did have standard sized or larger

cars, they would overhang the footway. Together with the nearby lamp-post these obstructions would add to the unsafe environment for pedestrians in particular but which could also cause a hazard within the carriageway.

9. There are many parking spaces in similar positions within the front gardens of houses in the nearby area although I am not provided with precise details about the locations, traffic conditions or the dimensions of those. I have considered the appeal development on its own merits and it may well be that some of those other examples are also unsafe. They do not provide a precedent for another similar development and do not help in any way to make this development safe.
10. In relation to the main issue, the development has a harmful effect on pedestrian and road safety. I do not consider that planning conditions for any alteration of the development could be imposed in such a way as to make this development safe. The development has increased highway danger with respect to pedestrians as well as other road users, not producing a high standard of safety. This does not protect or enhance the footway and has not been designed by putting the needs of pedestrians and cyclists first. The development does not therefore comply with Policies IM4 or IM(b) of the Royal Greenwich Local Plan, Core Strategy with detailed policies (GLP), or Policy T4 of the London Plan 2021 (LP).

Other matters

11. The development is reflective of the changes that have been made to various properties nearby to accommodate vehicles. In this context the development does not cause harm to the character and appearance of the area but does not provide any enhancement, having a neutral impact.
12. I have not been made aware of any electric vehicle charging points at the appeal site. If such an addition were made, perhaps through a requirement of a planning condition, that would bring some benefit by encouraging the use of electric vehicles in the interests of adapting to climate change by moving to a low-carbon economy. This is encouraged within the National Planning Policy Framework (Framework) and so I can give this limited weight. I am not provided with evidence about how the development has supported economic growth or a prosperous economy as also encouraged in the Framework. The construction may have provided work for the builders and associated trades but there is no detail provided about how significant this was and it also has very little weight in my overall considerations.

Conclusion on ground (a)

13. Overall, these other matters and any potential advantages of the development do not outweigh my conclusions on the main issue. For these reasons, having had regard to the development plan as a whole and all other material considerations, I conclude that the appeal on ground (a) should fail and consequently, the deemed planning application shall be refused.

The Appeal on ground (f)

14. The appeal on this ground is that the steps required exceed what is necessary to achieve the purpose of the notice. The possible purposes for enforcement notices are defined within s173(4)(a) and (b) of the Act.

15. The notice requires most of the development to be removed apart from the steps leading up to the front of the house which is at a substantially higher level than the footway. The notice is therefore seeking to remedy the injury to amenity caused by the development or 'under enforcing' the breach and the Council has confirmed that within their statement.
16. It is not a matter for an appeal under this ground to argue that a planning application should be encouraged in order to find a more acceptable solution on site. That does not relate to whether the notice goes further than it should in achieving its purpose. It is not open to me under this ground or ground (a) to attach planning conditions to attempt to substantially revise or redesign the development and it is not clear to me that it would overcome the harm that I consider has occurred. There are no details of any other obvious alternatives evidenced to indicate that the notice should be relaxed or varied under this ground of appeal.
17. The appeal on ground (f) fails.

The Appeal on ground (g)

18. The appeal on this ground is that any period specified in the notice falls short of what should reasonably be allowed.
19. The notice allows for 6 months to carry out the requirements and the appellant has provided no evidence that the work could not be undertaken within that period. I have determined under ground (a) that whilst there is no harm to the character and appearance of the area, the development does not provide any enhancement or improvement of the street-scene as suggested by the appellant. I can see no advantage to providing additional time for the submission of a further planning application. Similarly, whilst I can accept that the work undertaken would have been expensive for the appellant. The submissions provide no details about why a longer period to comply is necessary due to the costs involved.
20. The development is unsafe and needs to be removed. I consider that 6 months would strike a reasonable and proportionate balance to ensure that in the interests of safety the notice is complied with whilst allowing an appropriate period to do so.
21. The appeal on ground (g) fails.

Conclusion

22. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Andy Harwood

INSPECTOR