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## Appeal Decision

Site visit made on 14 January 2025

**by R Satheesan BSc PGCert MSc MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 January 2025**

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**Appeal Ref: APP/T5150/C/23/3320432**

**27 Clarendon Gardens, Wembley HA9 7QW**

- 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 Nikolas Kritikos against an enforcement notice issued by the Council of the London Borough of Brent.
  - The enforcement notice was issued on 20 March 2023.
  - The breach of planning control as alleged in the notice is without planning permission, the erection of an outbuilding to the rear of the premises ("the unauthorised development").
  - The requirements of the notice are:
    - STEP 1 Demolish the outbuilding to the rear of the premises.
    - STEP 2 Remove all items, materials and debris, arising from that demolition, and remove all materials associated with the unauthorised development from the premises.
  - The period for compliance with the requirements is 3 months.
  - The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) 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, and 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.

### Appeal A on ground (a), the deemed planning application

#### Main Issues

2. The main issues are the effect of the development on:
  - the character and appearance of the area; and
  - the living conditions of neighbouring occupiers of 29 Clarendon Gardens with particular regard to outlook.

#### Reasons

##### *Character and appearance*

3. The site relates to a semi-detached dwelling characterised predominantly by semi-detached and detached residential properties. The timber outbuilding the subject of this appeal is used for storage.

4. Brent's Residential Extensions and Alterations SPD2, 2018 (SPD) states that only one outbuilding will normally be permitted in your garden, and that it should generally be located within the final fifth of your garden. The SPD also states that the maximum height of the outbuilding should be 2.5m where it would be within 2m of the boundary. Whilst the SPD is guidance only, its emphasis on good design is consistent with the Framework.
5. I appreciate that the overall footprint of the outbuilding is not excessive for the size and scale of this semi-detached property and rear garden and is comparable to other outbuildings in the area. Nevertheless, contrary to the SPD, the outbuilding is not positioned in the final fifth of the garden, but directly to the rear of an existing outbuilding, in the middle section of the rear garden. Furthermore, the outbuilding is positioned close to the boundary with the neighbouring garden and exceeds the 2.5m height requirement of the SPD, where it is within 2m of the boundary.
6. As such, the overall height and position of the outbuilding, located in the middle portion of the rear garden, in combination with a pre-existing outbuilding harmfully erodes the open garden setting, in contrast with neighbouring gardens, where outbuildings are generally located towards the rear section of the garden, further away from the dwellings.
7. I therefore conclude that the development harms the character and appearance of the area, in conflict with Policies DMP1 of the Brent Local Plan 2019-2041 (LP). Amongst other things these state that development will be acceptable provided it complements the locality.

*Living conditions of neighbouring occupiers of 29 Clarendon Gardens – outlook*

8. The timber outbuilding, in combination with the other existing outbuilding, extends for a considerable length, in close proximity to the boundary with the neighbouring garden at No 29. The outbuilding results in a dominant and overbearing development, rising above the existing boundary treatment. During my site visit I observed that outlook from No. 29 would be severely restricted by this development resulting in an increased sense of enclosure to occupiers of this property, thereby harming the living conditions of these neighbouring occupiers.
9. Therefore, the development fails to provide acceptable living conditions for occupiers of No 29 Clarendon Gardens, with regard to outlook. Accordingly, the development is contrary to Policy DMP 1 of the LP, which amongst other things states that development will be acceptable provided which it provides high levels of internal and external amenity.

**Conclusion on Ground (a) and the Deemed Planning Application**

10. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The development harms the character and appearance of the area and the living conditions of the neighbouring occupiers with regard to outlook in conflict with the development plan taken as a whole. None of the other matters raised by the appellant, including the benefits of providing the storage shed outweighs the harms identified. Therefore, there are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.

11. For the reasons given and with regard to all other matters raised, I conclude that the appeal on ground (a) should fail, and the deemed planning application should be refused.

### **The appeal on Ground (f)**

12. The appeal on this ground 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 (i.e. the matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".
13. The enforcement notice requires the demolition of the unauthorised development, and as such, the purpose of the notice is to remedy the breach of planning control rather than only remedy any injury to amenity.
14. The appellant considers that the outbuilding could be lowered in height to comply with regulations. However, no proposed drawings of this alternative scheme have been submitted, and therefore I am unable to determine how much a reduction the appellant is proposing or what the proposed building would look like. Indeed, it is open to the appellant to submit a planning application or a Certificate of Lawful Development application for this revised scheme if they so wish.
15. As the notice does no more than seek remedy of the breach, it is not excessive. In the absence of any proposed drawings, illustrating an alternative acceptable scheme, it is not therefore possible to vary the notice in the ways suggested by the appellant whilst achieving the purpose of the notice. There are no lesser steps drawn to my attention or any obvious alternatives that would remedy the breach of planning control which is the purpose of the notice.
16. On this basis, the Ground (f) appeal fails.

### **Conclusion**

17. 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.

*R Satheesan*

INSPECTOR