



Appeal Decision

Site visit made on 3 January 2018

by Susan Wraith Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 February 2018

Appeal Ref: APP/B5480/C/17/3176286

Land rear of 411 Upminster Road North Rainham RM13 9SA

- The appeal is made under s174 of the Town and Country Planning Act 1990 [hereafter "the Act"] as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Peter Assenheim against an enforcement notice issued by the Council of the London Borough of Havering.
 - The notice was issued on 8th May 2017.
 - The breach of planning control as alleged in the notice is: Without benefit of planning permission, operational development comprising metal storage container at the rear of the property.
 - The requirement of the notice is: Remove the unauthorised metal storage container from the rear of the property.
 - The period for compliance with the requirement is 1 month.
 - The appeal is proceeding on the ground set out in s174(2)(a) of the Act. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under s177(5) of the Act.
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Decision

1. It is directed that the enforcement notice be corrected in paragraph 3 by insertion of "the siting of a" after "operational development comprising". Subject to this correction the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under s177(5) of the Act.

Preliminary matter

2. The allegation (at paragraph 3 of the notice) should be framed in terms of the development undertaken i.e. the siting of the container, rather than the container per se. I shall correct the notice accordingly under the available powers of s176(1)(a) of the Act. No injustice will arise to either party in me so doing. The deemed application takes its terms from the allegation as corrected.

The appeal on ground (a) and the deemed application

Planning policies

3. I have been referred to policy DC61 of the Local Development Framework Core Strategy and Development Control Policies DPD. This policy seeks to maintain, enhance or improve the character and appearance of the area. It states that development must (amongst other things) respond to distinctive local building forms and complement or improve the amenity and character of the area

through its appearance, materials, layout and integration with surrounding land and buildings.

4. Planning law requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise.¹
5. National planning policy, as expressed in the National Planning Policy Framework [hereafter "the Framework"] seeks development which responds to local character and reflects the identity of local surroundings and materials.² Whilst policy DC61 pre-dates publication of the Framework it is in general conformity with it. It therefore carries substantial weight.

Main issue

6. Having regard to the policy background and the submissions made by the parties I consider the main issue in the appeal to be the effect of the container upon the character and appearance of the area.

Reasons

7. The area is primarily of suburban residential character and appearance comprising (mainly) a mix of detached and semi detached two storey dwellings and bungalows interspersed with a few small businesses fronting Upminster Road North. The properties, generally, have tiled pitched roofs and are of brick and/or render construction.
8. The appeal property is positioned at the junction of Upminster Road North with King Edward Avenue. It is of single storey pitched roof design with rendered elevations and shop fronts facing Upminster Road North. The property is occupied by a hairdressing business, sandwich bar and beauty salon.
9. The container is positioned to the rear of the appeal property taking up part of the yard area. Because of its box-like form and metal, utilitarian appearance it is discordant with the conventional architectural style and materials of the main building and the residential properties within the surrounding area generally.
10. The container is seen at close quarters within the yard area and from King Edward Avenue when the yard gates are open. With the yard gates closed the container is barely seen from public view points, it being tucked behind the building close to the east boundary and not discernibly higher than the gates. The top of the container can just be seen obliquely across the shared boundary with 2 King Edward Avenue when approaching from the north.
11. The container sits beside the garage at number 2 which abuts the shared boundary. It is unseen in views from the windows of number 2. Neither is it visually obvious from the garden of number 2 because of the surrounding fencing. From the rear facing windows and rear garden of 411a Upminster Road North the container (in part) is seen above the boundary fence and trellis.
12. Whilst views of the container are limited, where it is seen it appears as a visually incongruous feature within its surrounding physical context. The

¹ S38(1) and (6) of the Planning and Compulsory Purchase Act 2004 and s70(2) of the Town and Country Planning Act 1990.

² Amongst the Core Planning Principles set out in paragraph 17 of the Framework is that of always seeking to secure high quality design. Section 7 gives more detailed guidance on Requiring Good Design.

container does not respect distinctive local building form and materials. Neither does it complement or improve the character and appearance of the area.

13. The container is used for the storage of tables and chairs belonging to the sandwich shop and also for the storage of electrical equipment, parts and other small items associated with property maintenance. In these respects it serves a useful purpose. However, I cannot see why there would not be other, more acceptable, alternatives for meeting the storage needs of these small businesses. This consideration, therefore, carries very little weight.
14. The appellant has argued for a temporary planning permission. A period of two years is suggested. The identified visual harm to the character and appearance of the area would, thus, be limited and the weight given to it could be reduced a little. However, that harm would still outweigh the benefits of retaining the container which, as already explained, carry very little weight.

Other matter

15. It has been suggested that the use of the container results in noise and disturbance. When taking into account the nature and quantity of the items stored I consider that any noise and disturbance could be adequately controlled by the imposition of planning conditions limiting the hours of use and type of storage. This consideration is not a decisive one in the overall planning balance.

Conclusions on ground (a) and the deemed application

16. The container is harmful to the character and appearance of the area and offends the cited policy of the development plan. There are no considerations of sufficient weight which indicate a decision other than in accordance with the development plan. The appeal on ground (a) fails.

Conclusion

17. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with correction and refuse to grant planning permission on the deemed application.

Susan Wraith

Inspector