
Appeal Decision

Site visit made on 8 September 2017

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 03 October 2017

Appeal Ref : APP/B5480/C/16/3166367

Land at 61 Crow Lane, Romford, Essex

- 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 Sylvias against an enforcement notice issued by the Council of the London Borough of Havering.
- The notice was issued on 22 December 2016.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the car parking area to the front of the residential property shown hatched in black on the plan attached to the notice to use as a fast food take away hut (Use Class A5 of the Use Classes Order 2015).
- The requirements of the notice are (1) cease the use of fast food take away hut from 61 Crow Lane; and (2) remove take away hut from the land; and (3) remove all drainage pipes connected to the takeaway hut; and (4) restore the land to its lawful use from when the unauthorised use took place; and (5) remove any rubbish accumulated as a result of taking steps 1, 2, 3 and 4 above.
- The period for compliance with the requirements is seven days.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: the appeal is dismissed and the enforcement notice is upheld.

Ground (a) appeal and deemed application

Main Issues

1. The main issues in the determination of this appeal are the effect of the development on (i) the character and appearance of the host dwelling and the surrounding area, (ii) the living conditions of occupiers of nearby residential properties with particular regard to noise and disturbance and (iii) highway safety, with particular regard to the provision of on street parking.

Character and appearance

2. The appeal site is a residential single storey dwelling house. It is located in the Metropolitan Green Belt. A low brick wall sits on the front and side boundary. The unauthorised take away hut sits on the hard standing at the front of the dwelling house. The surrounding area is of mixed character comprising residential and commercial properties. The properties fronting Crow Lane are mainly residential interspersed with commercial units. The neighbour to the west at no 63 is residential and the property to the east is a commercial unit which shares access with the appeal site.

3. The development plan (including the London Plan and Core Strategy Development Plan) follow the National Planning Policy Framework (the Framework) in emphasising the need for development to respect its surroundings. Policy DC61 of the Core Strategy provides that planning permission will only be granted for development which maintains, enhances or improves the character and appearance of the local area. Policy DC45 provides that the Council will promote uses in the Green Belt that have a positive role in fulfilling Green Belt objectives and will only grant permission for specified purposes.
4. The unauthorised hut sits in the front garden of a residential dwelling. It is an incongruous addition to a domestic setting. Whilst there are commercial uses in this locality the site is in close proximity to other residential properties. The takeaway hut is highly visible from the highway and detracts from the streetscene. It is harmful to the character and appearance of the host dwelling and the surrounding area. It fails to maintain, enhance or improve the character of the local area contrary to policy DC61. It is not a use that falls within policy DC45 and does not fulfil Green Belt objectives.
5. I conclude that the development causes undue harm to the character and appearance of the host dwelling and the surrounding area and fails to accord with the development plan.

Living conditions – noise and disturbance

6. Policy DC61 of the Core Strategy provides that planning permission will not be granted where development has unreasonable adverse effects on the environment by reason of noise impact.
7. I note that the Appellant says that the majority of visitors are pedestrians but there is no supporting evidence and no guarantee that the customer base will remain the same over time. The hut is highly visible from the highway and it is likely that customers will be passing motorists as well as pedestrians. Traffic movements, customers being served and congregating near the hut is likely to create inevitable noise. The close proximity of the appeal site to residential dwellings means there is a likelihood of harm to the occupiers of nearby residential properties by reason of noise and disturbance particularly early morning when residents have a reasonable expectation of peace and quiet. I note that the Appellant says that he has not received complaints and that local people are supportive of the development but there is no supporting evidence before me and the Council say that the enforcement action was initiated because of a complaint. In any event the absence of complaint is not determinative of the absence of harm.
8. I conclude that the development causes harm to the living conditions of occupiers or nearby residential properties with particular regard to noise and disturbance and is contrary to the development plan.

Highway safety – car parking

9. Policy DC33 of the Core Strategy provides criteria for car parking provision. The Appellant does not dispute that the standard is not met but relies on an agreement with his commercial neighbour that customers may use their off road parking and attention is also drawn to the space at the front of the site for one vehicle. But there is no evidence before me concerning any agreement with

the neighbour. I therefore have no details as to what spaces may be guaranteed or for how long. The single space at the front of the property is insufficient to meet the standard required.

10. Without clear evidence as to car parking provision I share the Council's concern that the hut is likely to generate additional parking in nearby streets as well as loss of parking for the host dwelling and that this has the potential to adversely affect the flow of traffic and to lead to increased on street parking and detriment to highway safety.
11. On the evidence before me I conclude that the development causes undue harm to the availability of on street parking and potential detriment to highway safety contrary to the development plan.

Other matters

12. Whilst I do not doubt that the Appellant keeps the site clean, leaves no waste on site at night and takes pride in the appearance of the hut this does not outweigh the identified harm. The fact that the Appellant has rented the site as a burger van pitch does not negate the need for planning permission.

Conclusion

13. I have considered whether conditions could overcome the identified harm. I have taken into account the Planning Practice Guidance. I do not consider that conditions could overcome the identified harm.
14. 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 deemed application.

Formal Decision

15. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

S.Praill

Inspector