



Appeal Decisions

Site visit made on 6 September 2022

by **E Griffin LLB Hons**

an Inspector appointed by the Secretary of State

Decision date: 26th September 2022

Appeal A Ref: APP/B5480/C/21/3277386

2 Wickford Close, Romford RM3 9SD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Eleanor Smith against an enforcement notice issued by the Council of the London Borough of Havering.
- The notice was issued on 21 May 2021.
- The breach of planning control as alleged in the notice is without planning permission, the construction of a single storey outbuilding within the front curtilage of the property.
- The requirements of the notice are to
 - (i) Demolish the single storey outbuilding within the front curtilage of the property; AND
 - (ii) Remove all other debris, rubbish or other materials accumulated as a result of taking step (i) above
- The period for compliance with the requirements is 2 months
- The appeal is proceeding on the grounds set out in section 174(2)(a) 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.

Summary of Decision: Subject to a variation, the enforcement notice is upheld and the appeal is dismissed.

Appeal B Ref: APP/B5480/W/21/3275064

2 Wickford Close, Romford RM3 9SD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Eleanor Smith against the decision of the Council of the London Borough of Havering.
- The application Ref P1885.20, dated 12 December 2020, was refused by notice dated 7 May 2021.
- The development is described as "part retrospective application for a single storey storage shed to the front "

Summary of Decision: The appeal is dismissed.

Decisions

Appeal A

1. It is directed that the enforcement notice is varied by the deletion of "2 months" and the substitution of "4 months" as the period for compliance in Paragraph 5 of the notice.
2. Subject to that variation, 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 Act as amended.

Appeal B

3. The appeal is dismissed.

Procedural Matter

4. The site visit was arranged as an accompanied site visit with both parties in attendance. However, the Council did not attend and the Inspector proceeded with the visit on an unaccompanied basis. The Council later confirmed that its non-attendance was due to staffing issues and it had no objection to the change in procedure for the site visit.

Appeal A on ground (a) and Appeal B

5. For Appeal A, the ground (a) appeal is that planning permission should be granted for the matters stated in the notice. Since Appeal B is against refusal of planning permission for the same development, the considerations are the same and I can deal with both appeals together.

Main Issue

6. The main issue is the effect of the development on the character and appearance of the host dwelling and the surrounding area.

Reasons

7. The appeal site includes an end of terrace property within a block of 4 properties. There is another block of similar 4 properties opposite beyond a central green area with mature trees. These two blocks of houses sit between Wickford Drive and Dagnam Park Drive as Wickford Close is a cul de sac. Access to all these dwellings is from footpaths to either side of the central green space with no vehicular access. There are also areas of green space between the appeal site and Dagnam Park Drive. The appeal site is clearly within a verdant area with communal greens and trees. The houses have modest front gardens and have a degree of symmetry either side of the central green space. There are other properties on Wickford Close that are to the other side of Wickford Drive but that part of the Close has a different character largely to the presence of extensive car parking rather than green space.
8. The development is a square timber frame building in the front garden of the appeal site which has been finished in white render. It is around 5 metres in depth, 3.33 metres wide and has an overall height of around 2.5 metres with a flat roof. The development is side on to the host dwelling, close to the footpath, and has a UPVC front door and a UPVC window facing the neighbouring front gardens. The front gardens within the vicinity of the appeal site are largely open and do not contain separate built development.
9. As a separate outbuilding within a modest front garden area, the development is visually obtrusive and out of keeping with the largely open nature of the surrounding properties particularly due to its prominent front location. The development is visually obtrusive when approaching the appeal site from both directions. Viewed from the front of the appeal site, the location of the appeal building unbalances the symmetry of the host dwelling in comparison to the nearby houses.
10. The appellant has suggested that the appeal building could be suitably screened or camouflaged. There is currently very limited planting on the appellant's land apart from some sparse planting to the back of the appeal building. There appears to be less planting in nearby gardens since the appellant's photographs were taken even allowing for seasonal variations.

Neighbouring planting is not in any event within the control of the appellant. No details are provided of the proposed location of any fencing or screening or its height when the appeal building is around 2.5 metres high. The example of high hedging at No 10 appears to be for privacy reasons rather than to screen a building. Given the size and nature of the outbuilding with its prominent location, I am not satisfied that landscaping could overcome my finding of visual harm.

11. The appellant uses the appeal building to work from home and store materials as she is an artist. She states that she is unable to have an outbuilding in the rear garden due to its modest size. The end location of the appeal dwelling means that the rear garden is a triangular shape which narrows towards the rear of the appeal site. However, there are no details of any other options that the appellant has considered such as a separation of storage of materials and workspace. In any event, personal circumstances rarely justify the grant of planning permission for a permanent building which would remain on the land beyond occupation of the appellant.
12. Whilst it is the case that permitted development rights can be wide-ranging, they relate largely to ancillary buildings to the rear. Permitted development rights are therefore not comparable to the development which is to the front of the appeal dwelling and does require express planning permission
13. For the reasons given, I do find that the development does harm the character and appearance of the host dwelling and the surrounding area. It is therefore in conflict with Policy DC61 of the LDF Core Strategy which states that planning permission will only be granted for development which maintains, enhances or improves the character and appearance of the local area. It is also contrary to the Residential Extensions and Alterations SPD 2011 which states that outbuildings should be subordinate in scale to the existing dwelling and to the plot. It is also in conflict with Policy D3 of the London Plan which seek to enhance local context. I find Policy D4 of the London Plan to be less relevant to the development as it relates to matters such as masterplans and design codes.

Other Matters

14. The appellant has questioned whether it was expedient for the Council to issue an enforcement notice when a planning appeal had been lodged. However, whether or not it was expedient to serve the enforcement notice is a decision for the Council.
15. Although not raised in the appellant's statement or the appeal form, in final comments, the appellant alleges that Paragraph 11 d ii) of the National Planning Policy Framework (the Framework) is engaged. However, even if I were to apply the 'tilted balance,' I do consider that the adverse impacts of the development do significantly and demonstrably outweigh any benefits when assessed against the policies in the Framework as a whole.
16. I note that a nearby resident does support retaining the development and is concerned about the disruption and noise arising from removal. However, the removal is unlikely to take as long as construction and the comments made by the resident do not alter my finding of harm.

Conclusion on ground (a) of Appeal A and Appeal B

17. I have found that the development does harm the character and appearance of the surrounding area. The appeal on ground (a) fails and the deemed planning application should be refused. Appeal B also fails.

The appeal under ground (g)

18. An appeal under ground (g) is that the time for compliance with the notice is too short. The Council has allowed 2 months for compliance and the appellant has asked for 6 months based upon her financial circumstances and the need to find reliable tradespeople to carry out the work. The appellant's financial circumstances are not matters that I can take into account although removal is likely to be less costly than construction. Although the Council has referred to the appellant being aware of the need to comply since 6 May 2021 where an appeal is made on grounds other than ground (g), the appellant is entitled to assume success on those other grounds.

19. In the circumstances, I consider a period of 4 months to be an appropriate balance between the public interest of compliance and allowing time to find tradespeople to carry out the removal. The appeal under ground (g) succeeds to that limited extent and I will amend the notice accordingly.

Overall Conclusion

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

E Griffin

INSPECTOR