

Appeal Decision

Site visit made on 7 October 2015

by Phil Grainger BA(Hons) MRTPI

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

Decision date: 14 October 2015

Appeal Ref: APP/X5210/C/15/3006638
land at 173 York Way, London N7 9LN

- 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 M Shahzad Akbar against an enforcement notice issued by the Council of the London Borough of Camden.
- The notice was issued on 29 January 2015.
- The breach of planning control as alleged in the notice is the erection of a shed and two chimneys linked to dry cleaning equipment inside to the rear of no. 173 York Way.
- The requirements of the notice are to demolish the unauthorised shed and remove the chimneys and associated dry cleaning equipment.
- The period for compliance with the requirements is three months.
- 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 upheld.

Main Issues

1. These are the effect on the character and appearance of the locality which is within the Camden Square Conservation Area; and the effect on the living conditions of nearby residents having particular regard to noise and any other emissions.

Inspector's Reasoning

2. The appeal shed is immediately to the rear of no. 173 proper. This is part of a terrace that has commercial premises on the ground floor with, generally, two floors of other accommodation, often apparently in residential use, above. The machinery inside the shed includes a boiler and a cleaning machine or drier which did not seem to be in use at the time of my visit.
3. The shed itself is of a basic timber and plywood construction and is finished externally, on the visible sides as well as the roof, with felt. The two shiny metal chimneys or flues project from its flat roof to different heights. I do not share the appellant's view that such a structure represents high quality design or materials. On the contrary I found it to be a crude and utilitarian building of very poor appearance.
4. The garden or yard in which the shed is located is enclosed by walls and other buildings. It is a relatively inconspicuous location and I have taken that into account. However, the development is not completely hidden from view. The chimneys can be seen from Camden Road, the A503. In addition, the shed proper is visible from a good number of surrounding properties, many of them apparently residential.

5. The rear elevations of the surrounding buildings are less attractive than their fronts. Even so the extremely poor appearance the appeal shed must detract appreciably from the quality of the views from those buildings to the detriment of the overall character and appearance of the area. As such it is contrary to development plan policy including Policy DP24 of the Council's Development Policies document. That would be undesirable in any situation but is especially so in a designated conservation area. Harm to such an asset, even if that harm is less than substantial, is an important material consideration to be given substantial weight bearing in mind the statutory duty regarding conservation areas.
6. I conclude that the appearance of the shed is sufficiently harmful to the character and appearance of the area to be an overriding objection in itself to the granting of planning permission. In forming that view I have taken into account that in 2006 the Council granted permission for a timber clad shed with a flat felt roof covering a larger proportion of the rear yard. However, from the details available to me it does not seem that that building would have been of as crude an appearance as the one that currently exists. Moreover, the building approved in 2006 did not include any chimneys or flues, as it was intended to be used for storage only. In short the current shed is not the same as the one approved in 2006. It cannot be regarded as being authorised by the 2006 permission nor does that permission set an over-riding precedent for it.
7. Turning to the Council's concerns regarding potential noise and other emissions, I saw that the existing shed contains a boiler and other machinery, albeit not all apparently in use at the present time. The boiler was in use and produced some noise. No noise level readings are available to me but my impression was that it did not add appreciably to noise emitted from no. 173 proper, at least when the rear door into the main building is open.
8. As for other emissions, if there are any that are potentially harmful to the living conditions of nearby residents it is not evident how they could be dealt with satisfactorily given the position of the shed relative to the higher level dwellings around it. That would add to my concerns. However, no firm evidence has been provided to indicate that there have been any such emissions.
9. These matters might have required further investigation if the shed was otherwise acceptable, but given my conclusions regarding its appearance that is not necessary for me to reach a conclusion. For the reasons given above and having taken all other material considerations raised into account I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Decision

10. 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.

P Grainger

INSPECTOR