



Appeal Decisions

Site visit made on 18 September 2018

by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2018

Appeal A Ref: APP/X5210/C/18/3199378

Appeal B Ref: APP/X5210/C/18/3199379

5 Chetwynd Villas, Chetwynd Road, London NW5 1BT

- 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 appeals are made by Mr Ben Ingham (Appeal A) and Ms Phillippa Cooper (Appeal B) against an enforcement notice issued by the Council of the London Borough of Camden.
 - The enforcement notice, numbered EN16/0664, was issued on 09 March 2018.
 - The breach of planning control as alleged in the notice is: Without planning permission: erection of a new building at the back of the garden over 2.5m high.
 - The requirements of the notice are: (1) Completely remove the single-storey outbuilding located in the rear garden. (2) Make good the site following completion of the above works.
 - The period for compliance with the requirements is within 3 months of the date the notice takes effect.
 - Appeal A is proceeding on the grounds set out in section 174(2) (a), (f) 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.
 - Appeal B is proceeding on grounds (f) and (g). Since the prescribed fees have not been paid within the specified period in relation to Appeal B, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended has lapsed in relation to that appeal.
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Decisions

1. Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a new building at the back of the garden on land at 5 Chetwynd Villas, Chetwynd Road, London NW5 1BT referred to in the notice.
2. I take no further action in respect of Appeal B.

Preliminary Matters

3. Where two appellants are named on an appeal form, as is the case in this instance, the Planning Inspectorate considers that two appeals have been made and a separate appeal reference number is assigned to each appellant. I have referred to the appeals as Appeal A and Appeal B in the banner heading above.
4. If an appeal is brought on ground (a), a fee must be paid before the deemed planning application can be considered. It is often the case that the fee will

only be paid in relation to one of the appeals to save duplicating the expense. In this case, the fee has been paid in relation to Appeal A but not Appeal B. Consequently, the ground (a) appeal only proceeds in relation to that appeal. In all other respects, the two appeals are identical.

5. From reading the respective statements I note that there was initially a debate between the Council and the appellant as to whether the building was higher than 2.5m, that being the maximum height for an outbuilding to be used for purposes incidental to a dwellinghouse with reference to the terms of paragraph E.1(e)(ii), Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). However, the appellant does accept within his appeal correspondence that the structure is higher than 2.5m and no appeal has been made on ground (c) to the effect that there has not been a breach of planning control. Accordingly, I have proceeded on the basis that the building does not benefit from 'permitted development rights' and that it was erected without the benefit of planning permission.

Appeal A on Ground (a)

6. The main issue in respect of the appeal on ground (a) is the effect of the development on the character and appearance of the area and the Dartmouth Park Conservation Area (the CA).
7. The appeal site is located within the Dartmouth Park Conservation Area. The designation covers a primarily residential district encompassing a wide variety of housing which is reflective of the history of domestic architecture from the late 18th century onwards, as described in the Dartmouth Park Conservation Area Appraisal and Management Statement (the DPCAA).
8. Given the broad area of coverage, the DPCAA breaks down the CA into a number of distinct character areas. The site is located in sub-area 2 – "Dartmouth West" which was originally developed between the 1850s and 1890s on a relatively high density terraced layout (when compared to other parts of the CA) with an increasing tendency towards gothic styles in the later phases of development¹. The short row of properties at Chetwynd Villas was constructed later – in the 1920s/30s – with features typical of that period, including double height bay windows; rendered facades at first floor level; exposed timber in the forward facing roof gables; and front gardens bound by low walls and hedges. As such, the block has a suburban quality set amongst taller and more imposing Victorian terraced blocks.
9. The DPCAA identifies that Chetwynd Villas makes a positive contribution to the character and appearance of the area and I concur with that assessment on account of the fact that it is an interesting and relatively unaltered addition which adds interest in terms of the variety of housing styles and also in depicting the historical evolution of the CA.
10. The rear garden of the property backs onto the rear gardens of the opposing dwellings at Dartmouth Park Road. It is visible through the gap between the side of No. 1 Dartmouth Park Road and the driveway to the side of Lamorna, a detached property that is of twentieth century construction. The DPCAA states that the "*small but significant gaps between buildings and between parallel*

¹ Paragraph 7.25 of the DPCAA

rows of house-backs provide important views of greenery and backs of houses". I concur with that assessment and the greenery in rear gardens and the street trees on Dartmouth Park Road create a verdant and spacious atmosphere that enhances that part of the CA.

11. When viewed from the gap in the building line the structure does not dominate views and, for the most part, I suspect it will go largely unnoticed by those walking along the street. Even when one does look between the buildings the overall sense of greenery is not unduly affected and the prevailing element of the view remains the rear of the dwellings at Chetwynd Road/ Villas and the greenery within the gardens, as described in the DPCAA.
12. It will be noticed more regularly by the residents of adjacent properties but it is not unusual to expect a shed, garage or similar structure within the rear garden of a dwelling. In fact, when viewed from Dartmouth Park Road, the garage to the side of Lamorna is in the foreground. The cladding does not extend around the rear at present but the treated weatherboarding is hidden to a large extent behind the pre-existing boundary fence and, when viewed in the round, the building does not unduly impact on the outlook from neighbouring dwellings.
13. The building is not visible from the street to the front of Chetwynd Road/ Villas but there will be some private views from the rear upper floor windows of neighbouring dwellings. Those views will be filtered by mature vegetation within the appellant's garden and in the gardens of surrounding properties. In addition, the top of the roof is set below the level of the substantial wall which runs along the shared boundary with No. 1 Chetwynd Road.
14. In any event, the fact that a structure is visible is not an indicator that it is harmful. Similarly, the fact that it is higher than may be 'permitted' through the terms of the GPDO does not dictate that it will be detrimental to the character and appearance of an area. The building is of modest size and some thought has clearly gone into the design. The recessed doorway and windows and the choice of timber cladding gives a degree of visual interest when viewed from the rear of the property. Moreover, the cladding will no doubt mellow over time and help the structure to assimilate into its surroundings. The garden is of a reasonable size and the structure is tucked away at the bottom such that plenty of usable open space and greenery remains. In that sense, the building does not alter the prevailing character of the area.
15. The DPCAA notes that the Council may consider withdrawing permitted development rights for alterations to dwellings to protect their built form and character and refers to concerns about the loss of original boundary treatments within gardens. However, there is no suggestion that permitted development rights have or should be removed for garden buildings and the Council appears to accept that a lower structure could be constructed by taking advantage of permitted development rights². In the context of the relatively discreet location the impact of the structure is not substantively greater than would be the case for a building that could be erected under the terms of the GPDO. That reinforces my view that there is nothing unusual or incongruous about this modest structure at the bottom of a residential garden.

² Under ground (f) within its appeal statement, the Council suggests that the building would comply with permitted development rights if it was reduced in height by 36cm.

16. The appellants have suggested that they intend to undertake planting to screen and complete the development but that has been on hold pending the outcome of the appeal. Had I found that the building caused harm to the character and appearance of the CA, it may have been possible to attach a condition to secure a landscaping scheme in an attempt to mitigate that harm. However, for the reasons given, I am satisfied that the building has not caused harm to the character and appearance of the area and that the prevailing character of the CA has been preserved. Accordingly, I find that consideration of any further landscaping should be left to the discretion of the appellants.
17. For the reasons set out the development is in line with the aims of policies D1 and D2(e) of the Camden Local Plan (2017) and the aims of the National Planning Policy Framework, as set out at section 16, with regard to designated heritage assets. Accordingly, I conclude that Appeal A should succeed on ground (a) and planning permission will be granted.
18. The appeals on grounds (f) and (g) do not therefore need to be considered because the enforcement notice will be quashed as a result of my decision in relation to the appeal on ground (a).

Chris Preston

INSPECTOR