
Appeal Decision

Site visit made on 8 April 2015

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

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

Decision date: 28 April 2015

Appeal Ref: APP/B1550/W/14/3001439

89 Eastwood Road, Rayleigh, Essex, SS6 7JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Kujtim Halilaj against Rochford District Council.
 - The application Ref 14/00725/FUL, is dated 3 October 2014.
 - The development proposed is relocation of canopy (approx 1.125m to south and 700mm to west and raised 400mm); relocation of cabin (to provide WC, galley, customer waiting and office) to be re-sited between the canopy and the boundary fence.
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Decision

1. The appeal is allowed and planning permission is granted for the relocation of canopy (approx 1.125m to south and 700mm to west and raised 400mm; location of cabin (to provide WC, galley, customer waiting and office) to be sited between the canopy and the boundary fence at 89 Eastwood Road, Rayleigh, Essex, SS6 7JR in accordance with the terms of the application, Ref 14/00725/FUL, dated 3 October 2014, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The canopy element of the appeal proposal has been repositioned and is currently in the location for which planning permission is sought. Whilst I have not been made aware of a planning permission for the canopy in its previous location, there is nothing to suggest that the Council considers it was unlawful. As such, I have considered the implications of the relocation of the canopy.
3. A cabin has also been placed on the site, although is it larger and not in the location for which permission is sought. I understand that an Enforcement Notice has been issued in respect of the current cabin. As such, I have considered the cabin element of the scheme as if it were a fresh proposal and amended its description in paragraph 1 above accordingly.

Main Issues

4. The main issues in this case are the effects of the relocation of the canopy and the proposed cabin on:
 - the character and appearance of the area
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- the living conditions of the occupiers of 99 Eastwood Road with particular regard to outlook, light and privacy.

Reasons

Character and Appearance

5. The appeal site sits at the corner of Eastwood Road and Queens Road. This is a transitional location between Rayleigh town centre to the west and residential areas to the south, east and north. The site is open on both road frontages and therefore, whilst the canopy and the cabin would be located towards the rear boundary, they would be prominent in the street scene. However, the site is currently used as a car wash and includes a substantial modern glass and metal building with a barrel vault roof, as well as signage and extensive areas of hardstanding. It is, therefore, unmistakably commercial in character and is seen as a continuation of the commercial uses in the adjoining town centre.
6. The curved roof of the canopy would broadly follow the form of the roof of the car wash building and would align with that roof somewhat more closely in its relocated position than in its previous position. I recognise that the colour of the canopy does not match the car wash building. However, the relocation of the canopy would not exacerbate that variance.
7. The cabin would sit, relatively unobtrusively, partly behind and partly below the canopy and along the rear boundary of the site. It is proposed to paint the cabin to match the colour of the car wash building. This measure can be secured by condition and would help to unify the appearance of the existing and proposed structures.
8. Consequently, I find that the relocated canopy and the proposed cabin would not be out of place in the street scene and would not harm the character and appearance of the area. As such, the proposal would accord with Rochford Development Management Plan (DMP) policy DM1 insofar as it requires proposals to contribute positively to the surrounding built environment.

Living Conditions of the Occupiers of Number 99

9. Whilst the relocated canopy is 400mm higher than in its previous position, it is also some 700mm further away from the boundary with number 99. I consider that, in combination, these changes do not result in the relocated canopy having a materially overbearing effect on the neighbouring occupiers or lead to a loss of light compared with its previous location.
10. The cabin would be sited alongside the common boundary. However the top of the cabin would not be significantly higher than the close boarded fence which marks the boundary. Moreover, its location close to the boundary, with access only on the side facing away from the neighbouring property, would provide a greater degree of separation between the car wash activity and the neighbouring garden than currently exists. Whilst the cabin would accommodate toilet facilities, these would be enclosed with the structure. The detail of the drainage connection for the cabin is not a planning matter. As such, I find that the cabin would not be intimidating or have an overbearing effect on the outlook of neighbouring occupiers.

11. The raised height of the canopy would increase the opportunity for views below it to the first floor rear windows of number 99. The positioning the cabin would curtail those views somewhat. However, in order to block views completely, it has been suggested that the space between the canopy and the top of the cabin should be infilled. This measure can be secured by a planning condition. With this safeguard in place, I consider that the proposal would not reduce the privacy of neighbouring occupiers.
12. The proposal would, therefore, comply with DMP policy DM1 insofar as the policy requires development to avoid overlooking and promote visual amenity.

Conditions

13. The Council has suggested three conditions. With amendments for clarity, I find that they meet the tests set out in the Planning Practice Guidance. A condition requiring the cabin to be painted to match the car wash building is necessary in the interests of the character and appearance of the area. I have already referred to the need for a condition to infill the space between in the canopy and the cabin in order to safeguard the living conditions of the occupiers of number 99. In addition, a condition specifying the approved plans is necessary for the avoidance of doubt and in the interests of proper planning.

Conclusion

14. For the reasons outlined above, the appeal should be allowed.

Simon Warder

INSPECTOR

**Schedule of conditions attached to
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89 Eastwood Road, Rayleigh, Essex, SS6 7JR**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) Prior to the occupation of the cabin hereby approved, it shall be painted to match the adjoining car was building.
 - 3) Within two months of the date of this decision, details of a suitable means of infilling the space between the canopy edge and the roof of the cabin shall be submitted to and approved in writing by the local planning authority. The approved means of infill shall be installed within one month of the approval of the details and thereafter retained in perpetuity.
 - 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 1404/SP-A; 1404/10-A and 1404/11-A.
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