

Appeal Decision

Site visit made on 29 June 2016

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

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

Decision date: 21 July 2016

Appeal Ref : APP/U5360/C/15/3141073

Land at 39 Brighton Road, Hackney, London, N16 8EQ.

- 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 Neil Carson against an enforcement notice issued by the Council of the London Borough of Hackney.
- The notice was issued on 12 November 2015.
- The breach of planning control as alleged in the notice is without planning permission the operational development comprising the installation of a set of lean-to solar panels to the rear wall of the property at ground and first floor level.
- The requirements of the notice are (i) completely remove from the property the unauthorised solar panels attached to the rear wall at ground and first floor levels, (ii) remove from the property all mounting brackets, piping and fittings associated with the unauthorised solar panels, (iii) make good any damage from the compliance with the other requirements of the notice and restore the property to its condition before the unauthorised developments were commenced and carried out at the property, (iv) remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the property and its premises.
- 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 allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision

Preliminary Matters

1. The Appellant complains that the Council did not visit the site or discuss the matter with him prior to the issue of the notice. This is not a ground of appeal and therefore not a matter that I have taken into account in determining the appeal.
2. As confirmed in correspondence during the course of this appeal the appeal by Ms Martine Padwell lapsed.

Ground (a) appeal and deemed application

Main issue

3. The main issue in the determination of this appeal is the effect of the development on the character and appearance of the host dwelling and surrounding area.
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Character and appearance

4. The appeal site is a two storey mid terrace dwellinghouse located in a predominantly residential area comprising terraced houses and flats. To the rear of the site is a private gated mews (Palatine Avenue). The two solar panels are fixed to the rear elevation of the property and located over rear doors. They protrude from the plane of the rear wall in a sloping position. Planning permission has been granted for an extension at the rear of the property but is not implemented.
5. The development plan (including the London Plan, Core Strategy and Development Management Local Plan (DMLP)) mirrors the National Planning Policy Framework (the Framework) in emphasising the need for development to respect its surroundings. Policy 24 of the Core Strategy says that development should seek to enrich and enhance the built environment. Policy DM1 of the DMLP requires development to be of high quality design. My attention is also drawn to an emerging supplementary planning document concerning sustainable design but as this is described as emerging this limits the weight I can attach to it as a material consideration.
6. The panels are visible from some neighbouring properties in Brighton Road and Palatine Avenue. I note the objection from one neighbour who describes the panels as unsightly and out of character. But I find the character of the rear of the terrace of properties in which the appeal site sits to be varied and punctuated with balconies and railings in nearby properties. The panels do not disrupt any established rhythm and the development contributes to the blend of domestic garden treatments in the surrounding area. The panels are slim in profile and their sloping appearance resembles an awning. They do not overly dominate the host dwelling and their size is not disproportionate in their residential garden context. I do not find them to be incongruous in a domestic garden setting.
7. I conclude that the panels do not cause undue harm to the character and appearance of the host dwelling or the surrounding area and are not contrary to relevant policies in the development plan. The parties have not suggested conditions in the event that the appeal is allowed. I have taken into account the Planning Practice Guidance but in the absence of identified harm I do not consider that any conditions are necessary.
8. For the reasons given I conclude that the appeal should succeed on ground (a) and planning permission will be granted.

Formal Decision

9. The appeal 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 installation of two lean-to solar panels to the rear wall of land at 39 Brighton Road, London, N16 8EQ referred to in the notice.

S. Prail

Inspector