
Appeal Decision

Site visit made on 27 September 2016

by Nigel Burrows BA MRTPI

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

Decision date: 21 October 2016

Appeal Ref: APP/U5360/C/16/3147903

41 Oldhill Street, Hackney, London, N16 6LR

- 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 S Berger against an enforcement notice issued by the Council of the London Borough of Hackney.
- The enforcement notice, ref: 2015/0462/ENF, was issued on 10 March 2016.
- The breach of planning control as alleged in the notice is the erection of a single storey rear extension.
- The requirements of the notice are (i) Remove the unauthorised single storey rear extension in its entirety; (ii) 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 3 (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 is upheld

Procedural Matters

1. Planning permission was apparently granted during 2009 for the erection of a single storey extension at the rear of No's 37 and 39 Oldhill Street.¹ According to the Council, the approved plans showed that part of the extension would also be constructed to the rear of No 41 Oldhill Street. However, the Council indicates this part of the extension was built higher than the scheme approved under the terms of the 2009 permission.²
2. According to the appellant, there are discrepancies in the approved drawings – although the extension to the rear of 41 Oldhill Street is shown on the floor plan, it is not shown on the drawing of the proposed rear elevation. There certainly appears to be some ambiguity in the drawings. Be that as it may, there is no dispute that a breach of planning control has occurred as alleged in the enforcement notice. Significantly, the appeal has not been lodged on ground (c), that there has not been a breach of planning control. There is no substantive evidence before me to support an appeal on this ground.
3. The submissions for the appellant indicate that a retrospective application for planning permission has been lodged in relation to the extension constructed at No 41 Oldhill Street. The appellant's stance is the Council should determine this application instead of pursuing enforcement action against the development. However, I am obliged to determine the appeal against the enforcement notice. As the appeal has been lodged on ground (a), I am also able to focus on the planning merits of the extension 'as built'.

¹ Planning permission ref: 2009/1216

² As indicated in Part 4 of the Planning Officers' report

The ground (a) appeal and deemed application

4. The appeal relates to a three storey, end-of-terrace property situated on the northwest side of Oldhill Street, at its junction with Stamford Grove East within Hackney. According to the appellant, the ground floor of the property is used for commercial purposes with residential accommodation above. The Council confirms the building is not listed. However, it lies within the Northwold and Cazenove Conservation Area. There are Grade II listed buildings to the rear of the site in Stamford Grove East (Grove House and Grove Cottage).
5. The main issues in this case are firstly, the effect of the extension on the character, appearance and architectural integrity of the main building and secondly, its implications for the character or appearance of the Northwold and Cazenove Conservation Area.
6. The overall bulk and block-like configuration of the single storey extension pays little regard to the architectural composition of the main building. The adverse visual impact of the extension is exacerbated by the use of common brickwork upon its flank and rear elevations which accentuates its rudimentary, block-like appearance when viewed from Stamford Grove East. The extension amounts to a crudely designed, discordant enlargement, which significantly harms the character and appearance of the building.
7. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a general duty upon decision makers with respect to any buildings or other land within a conservation area to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. The crudely designed, discordant nature of the extension appears out of keeping with the prevailing character of the street scene on this side of Stamford Grove East, which includes the historic buildings referred to earlier together with the richly detailed façade of Stamford Mansions. As such, it fails to preserve or enhance the character or appearance of the Northwold and Cazenove Conservation Area.
8. The development also conflicts with the relevant development plan policies cited by the Council, including policies 24 and 25 of the Core Strategy³, which seek to enrich and enhance the built environment and require all development to make a positive contribution to the historic environment. It also conflicts with policies DM1 and DM28(A) of the Local Plan,⁴ insofar as they require high quality design and seek to protect conservation areas.

Overall Conclusions

9. The Council's concern to protect the heritage assets of the Borough is broadly consistent with the objectives of the National Planning Policy Framework (the NPPF - published in March 2012). Paragraph 132 gives 'great weight' to the conservation of a designated heritage asset. The more important the heritage asset, the greater the weight that should be given. I acknowledge that for the purposes of paragraph 134 of the NPPF, the development would lead to less than substantial harm to the significance of a designated heritage asset. However, I find this harm would not be outweighed by any public benefits.
10. It is not obvious to me that the objections to this development could be overcome by any appropriate planning conditions. In view of my findings on the main issues, I have concluded that the ground (a) appeal and the deemed application should not succeed. I have taken into account all the other matters raised in the representations, but I find that they do not alter or outweigh the main considerations that have led to my decision.

Formal Decision

11. The appeal is dismissed and the enforcement notice is upheld.

Nigel Burrows

INSPECTOR

³ Adopted in 2010

⁴ Development Management Local Plan adopted in 2015