
Appeal Decision

Site visit made on 14 November 2016

by Tim Belcher FCII, LLB (Hons), Solicitor (Non-Practising)

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

Decision date: 22 November 2016

Appeal Ref: APP/Y5420/C/16/3145557
482 West Green Road, London, N15 3DA

- 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 1990 Act").
- The appeal is made by Hi-Tech Motor Centre Limited ("the Appellant") against an Enforcement Notice issued by the Council of the London Borough of Haringey ("the Council") on 26 January 2016.
- The Enforcement Notice is numbered UNW/2015/00606.
- The breach of planning control as alleged in the Enforcement Notice is unauthorised alterations to the roof.
- The requirements of the Enforcement Notice are: i) Remove the new roof in its entirety. ii) Remove from the land all resultant debris.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in Section 174(2)(a) and (g) of the 1990 Act.

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.

Procedural Matters

1. I will refer to the alterations to the roof (the subject of the Enforcement Notice) as "the Alterations".
2. I viewed the Alterations from rooms within the flats at No. 486 and 484 West Green Road. Further, I also saw the Alterations from the open yard to the rear of No. 486.
3. The Alterations have been made to the premises at No. 482. These premises are used as a motor garage providing MOT testing facilities, mechanical and bodywork repairs and the sale of fitting of motor products including tyres, shock absorbers and exhausts.
4. It was clear from my site visit and the written representations that the Alterations have not been completed. In particular the roof and parts of its metal supports overhang the sides of the building at No. 482 and trespass into the airspace above adjoining properties. This is a private matter between the owners of separate parcels of land and does not weigh against the Alterations. In any event the Appellant has indicated that the Alterations will be completed and the overhanging parts of the roof will be removed when the Enforcement Notice issue has been resolved.

Reasons - Ground (a) and the deemed planning application – that planning permission should be granted for what is alleged in the Enforcement Notice.

5. The Council's reason for issuing the Enforcement Notice is because they consider that the Alterations have a serious impact on the living conditions of nearby residential occupiers by reason of loss of outlook.

Policy

6. The Development Plan for the area includes saved Policy UD3 of the Haringey Unitary Development Plan 2006, Policy 7.6 of the London Plan 2011, and Policy SP11 of the Haringey Local Plan 2013.
7. The relevant Development Plan Policies explain that:
 - a) The Council will require development proposals to demonstrate that there is no significant adverse impact on residential amenity in terms of loss of aspect.
 - b) New development should aim to ensure that development will not worsen the quality of life for those living in Haringey.
8. I have also been referred to policies in the National Planning Policy Framework (the NPPF). The NPPF explains that one of the principles of planning should be to always seek a good standard of amenity for all existing and future occupiers of buildings.

Do the Alterations have an unacceptable impact on the living conditions of nearby residential occupiers having particular regard to loss of outlook including any unacceptable sense of enclosure?

9. The main impact of the Alterations is illustrated on the plans incorporated after paragraph 4.2 of the Appellant's Statement of Case. The Appellant states that the Alterations have slightly increased the height of the roof. In so doing the changes to the roof has resulted in its bulk being increased when seen from the positions referred to above.
10. The Council consider that the Alterations impact on the amenity enjoyed by the residential occupiers of nearby properties. I had the opportunity of viewing the Alterations from the locations explained in paragraph 2 above. I asked the Council's representative at the site visit whether there was any other locations that he wished me to view the Alterations from. There were none.
11. The Council acknowledge that the most significant effect which the Alterations have impact on the occupiers of the flat at No. 484. The owner of that flat is not the occupier but he confirmed in writing that he had no objection regarding the Alterations. No objections from the occupiers of the flat at No. 484 have been brought to my attention.
12. The outlook from the bedroom window at No. 484 is mainly over what can best be described a sea of corrugated roofing of adjoining and nearby industrial / commercial buildings. The Alterations have impacted to a limited degree on the outlook from that bedroom window. The impact of the Alterations when viewed from other rooms within No. 484 is negligible.

13. I have also considered the impact of the Alterations when viewed from the windows and amenity space of the flat at No. 486. The impact from the rear facing windows of this flat is not as great as from No. 484.
14. On balance I consider that the Alterations do not have any significant adverse impact on residential amenity of the occupiers of the flats at Nos. 484 or 486. There is no other evidence before me that the Alterations have any significant impact on the residential amenity enjoyed by any other residential occupiers living nearby including those at Willow Court. Accordingly, I find no conflict with the relevant parts of the Development Plan.
15. I therefore conclude, having had particular regard to loss of outlook including any significant unacceptable sense of enclosure, that the Alterations do not have an unacceptable impact on the living conditions of nearby residential occupiers.

Other Matters

16. I have also considered the Council's concern that permission for the Alterations could set a precedent for further roof extensions on adjacent commercial premises which would further harm the amenities of neighbouring residential occupiers.
17. Inspection of the site and the surroundings reaffirms my view that each case must be judged on its individual merits. In this case I have not been able to identify any significant adverse impact resulting from the Alterations and as explained above there is no failure to comply with the relevant policies in the Development Plan. Therefore, there is no problem with precedent arising from this decision.

Conclusion

18. For the reasons given above I conclude that the appeal should succeed on Ground (a) and planning permission will be granted. The appeal on Ground (g) does not therefore need to be considered.

Formal Decision

19. 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 for the development already carried out, namely the alterations to the roof at 482 West Green Road, London, N15 3DA.

Tim Belcher

Inspector