
Appeal Decision

Site visit made on 22 November 2016

by Mr N P Freeman BA(Hons) DipTP MRTPI DMS

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

Decision date: 30 November 2016

Appeal Ref: APP/G5750/C/16/3151628

198 Walton Road, Manor Park, London, E12 5RL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 by Mr Omar Bahar against an enforcement notice issued by the Council of the London Borough of Newham.
- The enforcement notice, numbered 16/00131/ENFNOT, was issued on 8 April 2016.
- The breach of planning control as alleged in the notice is "Without planning permission the erection of a roof extension".
- The requirements of the notice are:
 1. Demolish the roof extension (as shown edged in yellow on the photograph attached at Appendix 1) and return the roof of the property to its form prior to the unauthorised works being undertaken.
 2. On completion of step 1 above, remove all materials and debris from the site.
- The period for compliance with the requirements is three months after the notice takes effect.
- The appeal 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.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Ground (a)

Main Issue

1. This is the impact on the character and appearance of the dwelling and the locality.

Reasons

2. The roof extension that has been constructed spans the full width of the property and rises to the height of the ridge of the house. It has necessitated the raising of the southern flank wall with new brickwork topped with a concrete coping stone. The face of the extension is tile hung and has been built up from the line of the wall below with no set back.
3. The national and local policy context has been described by the parties and the emphasis in terms of the relevance to this appeal is on ensuring that new development is of a high quality in terms of design and materials with an appearance which respects the character of the surrounding area. In particular paragraph 64 of the National Planning Policy Framework (NPPF) advises that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

4. I consider that the extension that has been constructed is a large bulky, box-like addition which overwhelms the property and fails to respect its context. I observed that there are no dormer or roof additions in the rear roof slopes of the surrounding properties. I appreciate that having regard to "permitted development" rights¹ it may be possible to add dormer extensions but no case is made that the present structure complies with the rights conveyed. Moreover I am assessing the proposal in the context of the character and appearance of the area at present. In this respect I find that the development represents an incongruous and intrusive structure which conflicts with the requirements of paragraph 64 of the NPPF, Policies 7.4 and 7.6 of The London Plan, Policy SP3 of the Council's Core Strategy and saved Policy H17 of the Council's Unitary Development Plan.
5. I have taken account of the fact that the extension is at the rear of the property and consequently has only limited impact on the street scene and public realm where the raised flank wall can be seen. However it is in clear view from the rear of the nearby properties where it stands out as a prominent feature which is out-of-keeping with prevailing character and appearance of the surrounding dwellings. In terms of design, I note that the Council's Supplementary Planning Guidance 'Altering and Extending Your Home' states that roof extensions should "have a substantial proportion of the existing roof around it. It should not give the impression of being of full width or full height". The development is at odds with this advice as it is both full width and full height with none of the original rear roof plane remaining.
6. The Council have also referred to some other decisions where Inspectors have dismissed appeals for similar roof additions. Whilst I am not aware of the particular details of these cases they reinforce the importance of such additions being designed in a sensitive fashion in line with the prevailing policies. In this instance such an approach is lacking.
7. Bringing these points together I conclude that the extension has had a detrimental impact on the character and appearance of the dwelling and the locality contrary to the terms of the relevant policies and guidance. Consequently there is no success on this ground.

Ground (f)

8. The argument put forward on this ground is that the requirement to demolish the extension is excessive having regard to the rights conveyed by the GPDO 2015. It is asserted that instead the requirements should be tailored to reflect the permitted development rights. The Council resist this arguing that the only way to remedy the breach of planning control is to demolish the extension and that as the development has already taken place it is no longer possible to rely on "permitted development" rights. It is also pointed out that no plans have been supplied showing a form of alternative development which could be allowed to remain instead of what presently exists.
9. S174(2)(f) explains the basis for this ground of appeal. That is the steps set out in the notice exceed what is necessary to remedy any breach of planning control or any injury to amenity which has been caused by such a breach. In the absence of any claims of lawfulness remedying the breach can only be

¹ The Town and Country Planning (General Permitted Development) (England) (Order) 2015 (GPDO) – Class B of Part 1 of Schedule 2 applies

achieved by demolition of the whole structure. In terms of remedying the injury to amenity it may be that this could be achieved by a smaller roof extension which might come within the terms of what could have been "permitted development" if the present development had not taken place. However no details whatsoever have been provided of what form such an extension would take. The requirements of a notice need to be clear on their face so that the recipients of the notice and the Council know what is expected in order to achieve compliance. Without the necessary details it is not possible to clearly specify in terms what an alternative requirement to demolition would be. For these reasons there is no success on this ground.

Ground (g)

10. The argument for the appellant is that the 3 month period for compliance is too short given the need to raise finance, appoint a contractor and carry out the work. The Council dispute this claiming that this period is sufficient to achieve compliance.
11. No exceptional circumstances have been advanced and I consider that 3 months is a reasonable length of time to carry out the necessary work. From my inspection it appeared that the property may be unoccupied at present which would assist in carrying out the work expeditiously. I am also mindful that the Council does have discretion to extend the compliance period should particular difficulties be encountered. Hence, there is no success on this ground.

Conclusion

12. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Decision

13. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

NP Freeman

INSPECTOR