
Appeal Decision

Site visit made on 6 December 2016

by D A Hainsworth LL.B(Hons) FRSA Solicitor

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

Decision date: 20 December 2016

Appeal Ref: APP/Q5300/C/16/3149701
29 Bath Road, London N9 0JX

- The appeal is made by Vijayanand Aurisinkala-Appadoo under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: ENF/14/0518) issued by the Council of the London Borough of Enfield on 6 April 2016.
 - The breach of planning control alleged in the notice is "the unauthorised erection of a single storey rear extension (outlined in blue on the attached plan for identification purposes) to the rear of the Premises in excess of the parameters set out within Article 3 and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015".
 - The requirements of the notice are as follows: -
 - "5.1. Remove the single storey rear extension (outlined in blue on the plan for identification purposes)
 - 5.2 Remove all resulting materials from the Premises
 - OR
 - 5.3. Reduce the depth of the single storey rear extension (outlined in blue on the attached plan for identification purposes) in order to comply with the parameters set out within Article 3 and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015.
 - 5.4 Remove all resulting materials from the Premises"
 - The period for compliance with these requirements is one month.
 - The appeal is proceeding on the ground set out in section 174(2)(a).
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990 for the erection of a single-storey extension at the rear of 29 Bath Road, London N9 0JX.

Reasons for the decision

2. The main issue in deciding whether planning permission should be granted for the extension is its effect on the amenities of the occupiers of 27 Bath Road.
 3. The extension fills the gap between No 29's outrigger projection and the fence marking the boundary between Nos 27 and 29. It is a lightweight structure with a low-profile translucent plastic roof. The structure is a little over 6m deep, measured from the main wall of the house, but is not deeper than the outrigger. At its eaves, it is slightly higher than the fence.
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4. No 27 has a similar outrigger projection, but the gap between it and the boundary fence remains open. The main part of this house has a ground-floor window with an aspect through the gap towards the rear garden; a nearby window in its outrigger faces the fence.
5. The appellant indicates that the extension was carried out with the agreement of the neighbour at No 27 and that full consideration was given to its height when viewed from the neighbour's side. I have no reason to doubt that this was the case. As paragraph 5.3 of the notice recognises, since it only requires the depth of the extension to be reduced to the permitted depth of 3m, the extension complies with the terms of the permitted development order in all other respects. In particular, its height is less than the permitted height.
6. The Council state that the depth of the extension results in No 27 losing light and outlook and experiencing a sense of enclosure, but in my view it has only had a marginal effect on these matters when account is taken of the height of the extension compared to the height of the fence (which is in fact a little lower than the permitted height for such a fence). The reduction in the depth of the extension to 3m would not bring about much change in any of these matters.
7. The extension is in conflict with two of the criteria in Policy DMD 11 of the Enfield Development Management Document, because its depth is more than 3m and it infringes a line taken at 45° from the mid-point of the ground-floor window in the main part of No 27, but in this instance I consider that an exception should be made for the reasons given in paragraphs 5 and 6 above. The extension complies with Policy CP 30 of the Enfield Plan Core Strategy, because it maintains the quality of the built environment, and it complies with Policy 37 of the Development Management Document, because it has appropriate regard to its surroundings.
8. In my opinion, there are insufficient reasons to withhold planning permission for the extension. The appeal has therefore succeeded and permission has been granted. It has not been suggested that any planning conditions should be imposed in this event and I do not consider that any are required.

D.A.Hainsworth

INSPECTOR