
Appeal Decision

Site visit made on 12 December 2016

by Katie Peerless Dip Arch RIBA

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

Decision date: 29 December 2016

Appeal Ref: APP/T5150/C/16/3149504
189 East Lane, Wembley, London HA0 3NE

- 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 Ion Raralunga against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice, numbered E/16/0013, was issued on 29 March 2016.
 - The breach of planning control as alleged in the notice is the erection of a single storey rear extension to the premises.
 - The requirements of the notice are STEP 1 Demolish the unauthorised development. STEP 2 Remove all debris and items arising from that demolition and remove all materials associated with the unauthorised development from the premises.
 - The period for compliance with the requirements is 3 months.
 - 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.
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Decision

1. It is directed that the enforcement notice be varied by the insertion of the words '*brick built*' after '*single storey*' in the allegation, by the substitution of the plan attached to the notice with the plan attached to this Decision and by the substitution of 6 months as the time for compliance. Subject to these variations, the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural matters

2. Another appeal¹ has been made against the same enforcement notice, by a different appellant and on different grounds, although both ask that planning permission is granted for the development.
3. At some point after the Council visited the site and took photographs of the brick extension at the rear of 189 East Lane, an aluminium container was also placed on the hardstanding adjacent to the first addition. The Council says this took place after the notice was issued but the appellant implies that it was in position before this. The Council has made clear that the aluminium container was not included in the notice and that a separate enforcement investigation has been commenced in respect of it. Because the enforcement notice does not refer to this container or delineate the exact extent of the brick extension on the plan attached to the notice, the appellant maintains that the notice is unclear, cannot be amended and should be quashed.

¹ Ref APP/T5150/C/16/3149765

4. It seems to me that the reasons for issuing the notice, which refer to the use of brick, are sufficient to identify the development against which the notice is directed. However, I consider that there would be no injustice if I varied to notice to include the words '*brick built*' after '*single storey*' in the allegations. This would not expand the scope of the notice, as might be considered to be the case if the aluminium addition were also included, and all parties have had the opportunity to make their case for and against the retention of the brick structure.
5. It has also been claimed that the notice is aimed only at remedying the breach of planning control and does not specify why planning permission should not be granted for the development. The appellant appears to believe that the notice does not claim the extension is unacceptable in planning terms and consequently considers that upholding the notice would achieve no valid planning purpose.
6. However, the notice sets out the planning policies against which the Council considers the development fails to comply. It explains that it is considered that the building is an incongruous feature that is harming the appearance of the street scene and also makes reference to the loss of parking and service yard space which is said to be detrimental to highway safety and the free flow of traffic. It seems to me that the Council's position on why the development is considered unacceptable and should not be granted planning permission is therefore quite clear. I will consider the arguments on these points under the appeal on ground (a).
7. The appellant also states that the plan accompanying the notice does not give the name of the two roads on which the appeal site is situated. It is claimed that the site cannot be properly identified and could therefore be anywhere in the Borough. Once again the appellant claims that the notice is beyond correction for this reason and should be quashed.
8. However, the correct address is specified in the notice, together with the postcode. The premises is numbered on the plan and the site is outlined in a heavy black line. Using this information, I had no problem in finding and identifying the site and find no reason to correct the notice. However, I have the power to amend the plan and, for the avoidance of doubt and to satisfy the appellant, I will substitute a plan with the road names added.
9. The appeal made by the freeholder of the site originally included an appeal on ground (e) and the appellant in this case has requested that I take this into account when considering his appeal. However, this ground of appeal has now been withdrawn and, as it was not included in this appeal, it is not now before me for consideration.
10. There is a typographical error in the notice where it refers to standard PS9 in Schedule 3. This should be PS7 but, the policies cited in the enforcement notice from the London Borough of Brent (LBB) Unitary Development Plan 2004 have, in any event, now been superseded by those in the LBB Development Management Policies November 2016 (DMP). Consequently I find no need to correct the notice in this respect as I will now be considering the deemed planning application against the up-to-date policies from the DMP.

Site and surroundings

11. The appeal site is located on a corner plot at the junction of East Lane and Harrowdene Road and is the end property in a terrace that consists of shops and commercial premises on the ground floor with residential units above. The addition that is the subject of the enforcement notice is an extension to the rear of the building. It is built of brick with a flat roof, and has an entrance door with an adjacent obscure glazed window facing Harrowdene Road. Internally the extension is divided into two with one part containing shelving stocked with goods and opening into the shop, and the other containing a cold room. The shelving stands in front of the door and window which are therefore not visible from the interior.
12. Externally, there is a service yard at the rear of the terrace where parking for the properties is provided and loading and unloading for the commercial premises can take place. The extension occupies about half of the space available to the appeal premises to the north of the service road and the aluminium container is taking up most of the rest of this space.

Main Issues

13. I consider the main issues in this case are the effect of the development on the character and appearance of the surrounding area and on highway safety and the free flow of traffic in nearby roads.

Reasons

Ground (a): Character and appearance

14. The extension is built of a red brick that is brighter and less varied in colour and texture than that of the main building. It stands close to the pavement and is basically a box with little aesthetic merit and no architectural features to relieve its characterless appearance. Although it is attached to the less attractive rear of the block, the host building nevertheless has a degree of detail in its design that is totally lacking in the extension. It is wholly utilitarian but its position on the corner of the road means that it is prominent in the street scene. In my opinion it does not relate well in scale, detailing or materials to the main block which can be seen from a number of viewpoints in the locality.
15. Policy DMP1 from the DMP requires, amongst other things, development to be of a layout, scale, type, detailing and design that provides high levels of external amenity and complements the locality. I consider that the extension conflicts with this policy.

Highway safety

16. The appellant considers that, as there are parking spaces remaining at the rear of the property, there is no detriment to the situation that existed prior to the construction of the development. The Council's photographs show that the area was previously used for car parking, albeit this appears to have been an informal arrangement, and this will not now be possible.
17. Previously, service vehicles could also utilise part of the space where the extension now stands. However, it would now be difficult for service vehicles to access the rear of the shop without blocking the service road or parking spaces to the south of it.

18. The new extension has consequently made the delivery arrangements more difficult. However, there is still sufficient parking space available for this unit to meet the Council's adopted standards and I therefore consider that there is no conflict with development plan policy in this regard.
19. Nevertheless, there has been a loss of servicing area which is contrary to policy DMP13, which notes that loss of existing servicing will be resisted where it is still required to meet operational needs. The extension has reduced the available service area and this means that at delivery times, there may be congestion on the service road, leading to vehicles backing up into Harrowdene Road at a point close to the junction and where there are parking restrictions in the form of yellow lines. In my view, this is likely to lead to a reduction in highway safety and the free flow of traffic on the adjacent roads.
20. I also note that there has been no detailed plan submitted showing how the servicing arrangements would work with the extension in place. Therefore, whilst, on its own, the loss of the existing space might not be sufficient to refuse planning permission, this factor nevertheless adds to the weight of objection to the scheme.
21. Therefore, as I find that the extension conflicts with the design policies of the development plan and that there are no benefits that outweigh the identified harm, for the reasons given above I conclude that the appeal on ground (a) should fail.

Ground (f)

22. Under this ground of appeal the appellant maintains that lesser steps, such as painting the brickwork, would overcome the breach of planning control or injury to amenity. I have explained in preceding paragraphs why this would not be sufficient to overcome the harm and, in any event, the Council has confirmed that it is the breach of planning control that it is seeking to remedy. This can only be achieved by demolishing the extension and the appeal on ground (f) consequently fails.

Ground (g)

23. The appellant also asks for 9 months to complete the demolition, in order to source finance, find a contractor or possibly move premises. It appears that the appellant did not know that the extension was unauthorised when he purchased the property and whilst it may not take more than the 3 months allowed by the Council to remove the unauthorised extension, he may have to look for alternative location for his business.
24. Although the Council considers that the appellant has had ample time to arrange for demolition since the issue of the notice, the appellant is entitled to consider that his appeal may succeed and the period for compliance begins at the date the appeal Decision is issued. I consider that 6 months would be a reasonable period of time to allow for any necessary relocation and the appeal on ground (g) succeeds to this extent.

Conclusions

25. The appellant has submitted that the additional space is needed to allow the business to operate as a successful delicatessen, but has provided no detail to support this claim. I can therefore accord this submission little weight.

26. I have also considered whether the imposition of conditions, such as requiring the extension to be painted, could overcome the harm it is causing in respect of the impact on the character of the local area. However, as explained above, it is not only the colour of the bricks that is the problem; it is the overall mass and detail of the structure.
27. Therefore, for the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the deemed application.

Katie Peerless

Inspector

Plan

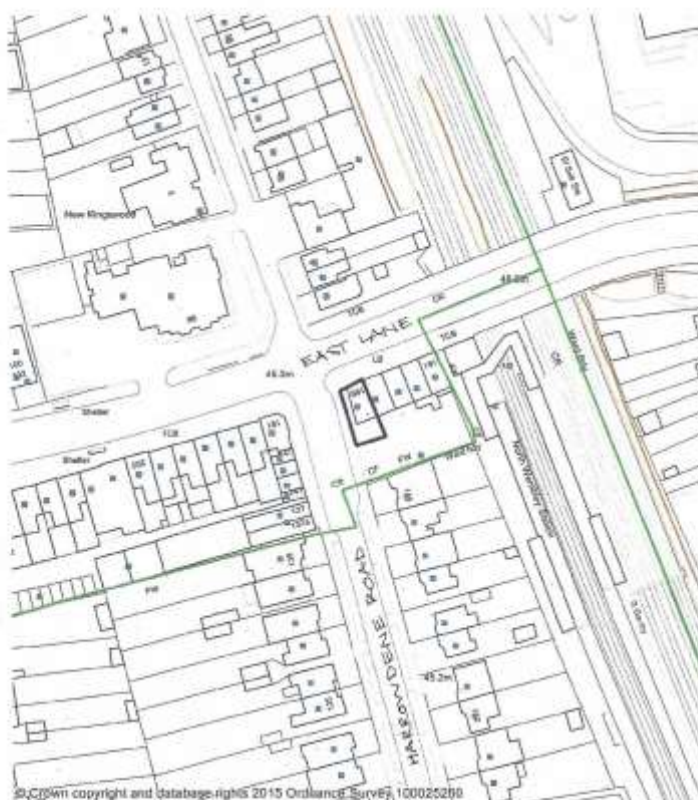
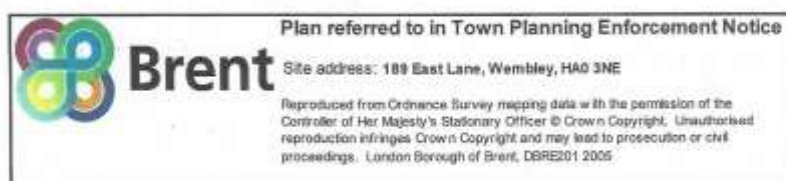
This is the plan referred to in my decision dated: 29 December 2016

by **Katie Peerless Dip Arch RIBA**

Land at: 189 East Lane, Wembley, London HA0 3NE

Reference: APP/T5150/C/16/3149504

Scale: NTS



This map is indicative only.