
Appeal Decision

Site visit made on 7 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: 30 December 2016

Appeal Ref: APP/W5780/C/16/3149789

59 Waterloo Road, Barkingside, Essex IG6 2EG

- The appeal is made by Andrew Patel under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: E0223/15) issued by the Council of the London Borough of Redbridge on 1 April 2016.
 - The breach of planning control alleged in the notice is "Two air conditioning units on the roof of single storey rear extension".
 - The requirements of the notice are as follows: -
 - “(i) Removal of the two air conditionings [*sic*] units to the rear of the property.
 - (ii) Remove from the land all resulting building materials, rubble and debris arising from compliance with (i)”
 - The period for compliance with these requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g).
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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 placing of two air-conditioning units on the roof of the single-storey rear extension at 59 Waterloo Road, Barkingside, Essex IG6 2EG.

Reasons for the decision

Ground (a)

2. The Council's appeal statement contains a one-line reference to "Potential noise and disturbance" being an issue. However, it contains no information relating to this matter and the reasons given for the issue of the notice do not mention it. I have no basis on which to conclude that either of the air-conditioning units is unduly noisy when it is in use. If a need for action did arise in the future, the Council could deal with it by means of environmental health controls.
 3. In my opinion, the main issues in deciding whether planning permission should be granted for the units are their effects on the character and appearance of the house and its surroundings and on neighbours' amenities.
 4. The units are towards the back of the roof of the 6m-deep single-storey rear extension. One is about a metre high and the other is smaller. They are positioned between the rear wall of the house and the two rows of photovoltaic panels that take up the front two-thirds of the space on the roof.
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5. There are first-floor windows near to the units in the two adjoining houses. From one of these, there is an oblique view of the larger unit; the other window is obscure glazed. Little can be seen of the units from neighbours' gardens because of the depth of the extension and the existence of other extensions. There are no significant longer-range views of the units.
6. Criterion (f) of Strategic Policy 3 of the Redbridge Core Strategy states that all new development should respect the amenity of adjoining properties and the locality generally. Policy BD1 of the Redbridge Borough Wide Primary Policies Development Plan Document seeks through several criteria to protect local character and appearance and neighbours' amenities. The use of the flat roof of a house extension for the placing of air-conditioning units is unusual, but in the circumstances I have described in paragraphs 4 and 5, I do not consider that these particular units have had a sufficiently significant impact to bring them into conflict with these policies.
7. I have therefore concluded that the appeal should succeed on ground (a) and that planning permission should be granted for the units. It has not been suggested that any planning conditions should be imposed in this event and I do not consider that any are required.

Grounds (f) and (g)

8. The enforcement notice has been quashed as a result of the success of the appeal on ground (a). Grounds (f) and (g) no longer fall to be considered.

D.A.Hainsworth

INSPECTOR