

Appeal Decision

Site visit made on 10 January 2017

by J A Murray LLB (Hons), Dip.Plan Env, DMS, Solicitor

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

Decision date: 31 January 2017

Appeal Ref: APP/G5750/C/16/3158132

Land at 227A Green Street, Forest Gate, London, E7 8LJ

- 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 Daminis Ltd against an enforcement notice issued by the Council of the London Borough of Newham.
- The enforcement notice, numbered 16/012222/ENFC, was issued on 2 September 2016.
- The breach of planning control as alleged in the notice is without planning permission the erection of an extension.
- The requirements of the notice are:
Either
 1. Demolish the extension (as shown edged in blue on the attached plan, and as shown edged in blue on the photograph attached at Appendix 1)
 2. On completion of step 1 above, remove all materials and debris from the site
OR
 1. Alter the extension (as shown edged in blue on the attached plan, and as shown edged in blue on the photograph attached at Appendix 1) so that it is built in accordance with the approved plans in respect of application reference 15/03580/FUL (decision dated 29.03.16)
 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) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections and a variation.

The notice

1. The notice alleges the erection of an extension without planning permission. However, whilst the appellant company did not cite ground (c), it stated that the extension was erected with planning permission reference 15/03580/FUL. Furthermore, the requirements of the notice include, as an option, alteration of the extension to comply with the plans approved by that permission dated 29 March 2016 (the permission). The permission was for "Erection of a single storey side extension." When the position was queried with the Council, it stated that the correct allegation should be carrying out development in breach of condition 2 of the permission, which reads:

"The development hereby approved shall only be carried out in accordance with the approved plans and documents listed below:

Drawing no. ARCH-01 (REV – A), 'Proposed Plans and Elevations' prepared by OSdesigns and dated October 2015

Associated 3D drawings demonstrating the proposed northern, eastern and western elevations of the property, received by the Council 7th January 2016.

No other drawings or documents apply."

2. As built, the extension differs from that approved as follows: (i) red bricks have been used instead of the yellow bricks shown on the drawings; (ii) above the glazed openings, the northern façade of the extension has been finished with red brick, rather than patch fittings to match the existing building façade, as specified in the application and shown on the approved drawings; (iii) the extension has been stopped short at its western end, so that it does not meet the existing glazing at the north-western corner of the host building, as shown on the approved drawings; the western and eastern end elevations are glazed, rather than finished in yellow brick, as shown on the approved drawings; and black metal roller shutters have been installed over each of the glazed openings, including those on the end elevations.
3. Whilst these deviations materially affect the appearance of the extension, I am satisfied that they are not so substantial as to result in the extension being without planning permission. The allegation should therefore be corrected to refer to a breach of condition 2 of the permission. This will also necessitate a correction of the reference to Section 171A(1)(a) of the 1990 Act, so that it refers instead to a breach under Section 171A(1)(b). It will also be necessary to vary the requirements so that demolition is no longer required, as that is clearly not necessary, in order to remedy the breach. I am satisfied that these corrections and this variation can be made without injustice. The only ground of appeal advanced is ground (a) and the corrections and variation do not alter the merits of the case, or the basis of the arguments.

Main Issue

4. Given the terms of the corrected notice, the deemed application for planning permission is for the erection of a single storey side extension without complying with condition 2 of planning permission Ref 15/03580/FUL dated 29 March 2016.
5. The main issue is the effect of the development on the character and appearance of the host building and the area.

Reasons

6. The appeal property occupies a prominent position at the corner of Green Street and Cromwell Road. Green Street is characterised mainly by 2-storey Victorian or Edwardian terraced properties, with shop and other commercial uses at ground floor level and residential and possibly office or storage space above. There are some modern buildings, the appeal property and the shopping centre opposite, on the west side of Green Street, being among the most obvious examples in this locality. The appeal property has 3-storeys, but also appears to have accommodation within a mansard roof. The shopping centre has an imposing 2-storey façade of traditional appearance, but with a third storey recessed behind a parapet wall. Cromwell Road is a predominantly residential street of generally 2-storey terraced houses.

7. The host property is of a contemporary style. It has extensive glazing at street level on the Green Street elevation and above the main entrance at the north-western corner, where it rises across 3 storeys and into the mansard roof. Red brick detailing around the windows at second floor level, and the dummy windows at first floor level, adds interest. Red brick is also utilised in the eastern section of the host building, which is stepped back a little from the main Cromwell Road elevation and, features a 2-storey box bay window and yellow brick detailing around dummy windows at second floor level.
8. Prior to the addition of the extension, the host property represented a coherent overall design. In another appeal Ref APP/G5750/C/14/2221659 concerning a similar extension to this property, it was recognised as being of "good contemporary design."
9. To some degree, even the extension approved by the permission would compromise the coherence of the original building. However, the approved yellow brick elevations at each end of the extension would tie it logically to the main Cromwell Road façade, rather than the recessed eastern section. Furthermore, the extensive frameless glazed openings, unimpaired by roller shutters, would give the extension a light form and appearance, whilst adding interest and activity to the Cromwell Road frontage. The approved patch fittings over the openings would also tie the extension visually to the existing detailing on the Green Street frontage and the main corner. Overall, the approved extension would harmonise with the host building.
10. Notwithstanding the presence of red brick detailing elsewhere on the host building, its use in the extension fails to integrate this element successfully with the main building; it appears as a somewhat cumbersome, 'bolt-on' addition, creating an impression of inelegant massing. This effect is exacerbated by the omission of the patch fittings above the openings and by the abrupt shortening of the extension at its western end.
11. Whilst much of the host building's Cromwell Road frontage was plain yellow brick, it was framed to either side by extensive glazing, to which they eye would have been drawn. By contrast, when down, the solid black metal roller shutters have a particularly bleak and forbidding appearance, presenting a dead frontage in a prominent location. They further inhibit the successful integration of the extension with the host building. There are numerous examples of metal roller shutters in the area, though many of them are at least perforated. However, when they are all in use, the shutters on this extension affect a considerable expanse of street frontage. On the other hand, if only one or two were in use (a distinct possibility as the extension comprises 6 separate shop units) they would look like black teeth in a smile.
12. I accept that adequate security is necessary, as does the Council's Supplementary Planning Guidance: 'Shopfront Design Guide', (SDG) adopted April 2002. However, the SDG advocates rolling mesh grilles which, among other things, allow light from within the shop to penetrate, creating a safer and more attractive environment. It would be open to the appellant to propose an alternative solution for consideration by the Council.
13. For the reasons given, I conclude that, as a result of the deviations from the approved plans, the development seriously detracts from the character and

appearance of the host property. Given the prominence of that building and its location, this also harms the character and appearance of the area. The development therefore conflicts with Policies 7.1, 7.4, and 7.5 of the London Plan Spatial Development Strategy for London (consolidated with alterations since 2011), published March 2016 (LP). Taken together, these policies require high quality design, which contributes to people's sense of place and ensures that they feel comfortable with their surroundings. It also conflicts with Policies S1, S6, SP1, SP3 and SP6 of the London Borough of Newham Local Plan: Core Strategy, adopted January 2012, and Policy SP8 of the London Borough of Newham Local Plan: Detailed Sites and Policies Development Plan Document, adopted 20 October 2016. Together these policies also require high quality attractive development that integrates with the street scene to create vibrant town centres and places of which people feel proud.

14. These development plan policies are consistent with the National Planning Policy Framework, which indicates that the planning system should always seek to secure high quality design. It also states that good design is a key aspect of sustainable development; it is indivisible from good planning and should contribute positively to making places better for people. I have also attached some weight to the SDG which, whilst it was prepared in a different development plan context, was adopted after public consultation and contains sensible advice in relation to security shutters.
15. Having regard to my conclusions on the main issue and all other matters raised the appeal should be dismissed.

Decision

16. (a) The enforcement notice is corrected: (i) in section 1 by deletion of "Section 171A(1)(a)" and the substitution of "Section 171A(1)(b)"; and (ii) by deletion of the allegation in section 3 and the substitution of the following:

"On 29 March 2016, planning permission Ref 15/03580/FUL was granted for the erection of a single storey side extension at 277A Green Street, Forest Gate, subject to conditions. Condition 2 stated:

"The development hereby approved shall only be carried out in accordance with the approved plans and documents listed below:

Drawing no. ARCH-01 (REV – A), 'Proposed Plans and Elevations' prepared by OSdesigns and dated October 2015

Associated 3D drawings demonstrating the proposed northern, eastern and western elevations of the property, received by the Council 7th January 2016.

No other drawings or documents apply."

It appears to the Local Planning Authority that this condition 2 has been breached as the extension has not been constructed in accordance with the approved plans because of the materials used, the width of the extension and the installation of metal roller shutters.

- (b) The enforcement notice is varied in section 5 by deletion of:

"EITHER

1. Demolish the extension (as shown edged in blue on the attached plan, and as shown edged in blue on the photograph attached at Appendix 1).
2. On completion of step 1 above, remove all materials and debris from the site.

OR"

(c) Subject to these corrections and this variation 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.

J A Murray

INSPECTOR