

Appeal Decision

Site visit made on 12 January 2017

by Andrew Dale BA (Hons) MA MRTPI

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

Decision date: 1 February 2017

Appeal Ref: APP/W5780/C/16/3153921
360 Ley Street, Ilford IG1 4AF

- 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 Reazul Islam Bhuiya against an enforcement notice issued by the Council of the London Borough of Redbridge.
 - The enforcement notice was issued on 26 April 2016 under ref. E0442/15.
 - The breach of planning control as alleged in the notice is:
"Without planning permission conservatory attached to existing single storey rear extension."
 - The requirements of the notice are set out as follows:
*"(i) Remove the conservatory attached to the existing single storey rear extension.
(ii) Remove from the land all building material and rubble arising from compliance with step (i)".*
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended falls to be considered.
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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 have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely a conservatory attached to the existing single-storey rear extension at 360 Ley Street, Ilford IG1 4AF referred to in the notice.

Background

2. The appeal property at 360 Ley Street is a two-storey terraced house which has additional accommodation in a large roof level extension at the rear. The short terrace which contains the appeal property is situated within a residential area and stands next to the junction between Ley Street and Kings Gardens. The appeal property is separated from Kings Gardens to the north by 362 Ley Street which occupies a substantially wider plot.
 3. Pursuant to application ref. 1632/15, the appellant has constructed a single-storey rear extension that extends beyond the rear wall of the original house by about 5.65 m. The enforcement notice attacks a conservatory that has been added to that extension. Measurements taken and agreed by the parties at the site visit revealed that the conservatory is 2.60 m in width and 4.00 m in depth. It is positioned next to the common boundary with 362 Ley Street.
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The appeal on ground (a) and the deemed planning application

4. Taking into account all I have seen and read, I consider that the main issues in deciding if planning permission ought to be granted for the conservatory are the effects upon the character and appearance of the property and its surroundings and upon the amenities enjoyed by the occupants of the neighbouring properties in terms of any potential loss of outlook or increased sense of enclosure.
5. The development plan includes the Redbridge Core Strategy 2008 (CS) and the Borough Wide Primary Policies 2008 (BWPP). In support of the general objective of securing developments and a built environment of high quality found within CS Strategic Policy 3 and BWPP Policy BD1, BWPP Policy BD5 sets out more detailed requirements for extensions to existing dwellings.
6. These development plan policies are broadly consistent with the National Planning Policy Framework (the Framework) which says that planning should always seek to achieve high quality design and a good standard of amenity for all existing and future occupants of land and buildings. The enforcement notice, the Council's questionnaire and the Council's appeal statement do not point me to any relevant local supplementary planning guidance or documents.
7. To my mind, what has been built is a typical, substantially glazed, domestic conservatory. There is nothing unusual about its general design. The materials of construction - white painted render below glass set in white uPVC frames - match the materials used in the rear wall of the main rear extension.
8. At only 4.00 m in depth, occupying less than half the width of the property's rear elevation and having a fairly low, shallow sloping roof, the conservatory is not particularly sizeable. In terms of its size, scale and height, it is not of such a mass that it dominates the existing property which has already been significantly enlarged at the rear from its original built form.
9. Although the conservatory, when viewed cumulatively with the previous ground floor rear extension, has resulted in the ground floor of the house projecting at the rear to a considerable depth on one side, I do not consider that it has adversely affected the character and appearance of the property or led to a disproportionate development of the plot. As the appellant points out, a considerable amount of undeveloped and useable amenity space remains at the rear. The lightweight, glazed construction presents a style, form and materials that complement the character of the house. The conservatory is perceived as a logical and subordinate addition to the back of the property.
10. It is possible to catch a glimpse of the conservatory from Kings Gardens, but it is not prominent in that street scene, given the distance it is set back from the road and the existence of the high roadside boundary wall that screens the rear garden of 362 Ley Street. This added to the degree to which nos 360 and 362 have already been extended and the sympathetic design of the conservatory leads me to find that the conservatory is in keeping with its surroundings.
11. The Council's statement offers no evidence about any loss of outlook or increased sense of enclosure for the neighbouring property at 358 Ley Street, even though that is the only property said to be affected in the enforcement notice. Given the degree to which the conservatory is set away from the

common boundary and the physical presence of the main single-storey rear extension at the appeal property, I agree with the appellant that the conservatory does not create an overbearing effect or an undue sense of enclosure in the outlook from no. 358.

12. At my site visit I was able to inspect the development from inside the rear ground floor area and back garden of no. 362. This neighbouring property has its own substantial ground floor rear extension which contains a wide, single room laid out as a kitchen and a dining area. A timber shed has been erected in the back garden of no. 362 close to the window serving that dining area and next to the common boundary with no. 360.
13. Even though the glazed sections of the conservatory clearly reach higher than the boundary fence, very little of the structure can be viewed from the dining area window because of the presence of the shed. The back door and kitchen window are set well away from the conservatory. The outlook from them and from most of the back garden is still essentially across the wide plot and also takes in the open aspect created by the presence of the side street (Kings Gardens). These matters added to the conservatory's glazed built form and the limited degree to which it projects beyond the rear ground floor elevation of no. 362 leads me to the view that any increased sense of enclosure or loss of outlook experienced by the occupiers of this neighbouring property is well within tolerable limits.
14. I find on the main issues that the conservatory does not materially detract from the character and appearance of the property and its surroundings or from the amenities enjoyed by the occupants of the neighbouring properties. I consider that the conservatory accords with the relevant development plan policies and the Framework. The fact that there have been no objections received from neighbouring occupiers in response to this appeal reinforces my view that this particular conservatory ought to be allowed to remain in place.
15. The Council's statement mentions BWPP Policy BD4 concerning amenity space in new residential development. There is no reference to amenity space considerations or to this policy in the enforcement notice. The Council has not supplied a copy of this policy. Moreover, the Council has not explained how the policy might be infringed in any way or indeed whether it has any real concerns about outdoor space.
16. Having regard to all other matters raised, I find no other factors of such significance to alter my conclusion that the appeal on ground (a) and the deemed planning application should succeed. It has not been suggested that any planning conditions should be imposed in this event and I consider that none are needed.

The appeal on ground (g)

17. The enforcement notice has been quashed as a result of the success of the appeal on ground (a). Ground (g) does not therefore need to be formally considered.

Andrew Dale

INSPECTOR