



## Appeal Decision

Site visit made on 20 February 2017

**by Pete Drew BSc (Hons) DipTP (Dist) MRTPI**

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

**Decision date: 22 February 2017**

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**Appeal Ref: APP/U5930/C/16/3159589**

**131 Norman Road, Leytonstone, London E11 4RJ**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 [hereinafter "the Act"] as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr Xingiang He against an enforcement notice issued by the Council of the London Borough of Waltham Forest.
  - The notice was issued on 2 September 2016.
  - The breach of planning control as alleged in the notice is: Without planning permission the erection of a front porch extension.
  - The requirements of the notice are to: (1) Reduce the height of the front porch extension to a maximum height of 3 metres high and the floor area to a maximum of 3 m<sup>2</sup> in line with Schedule 2, Part 1, Class D of the Town and Country Planning (General Permitted Development) (England) Order 2015 or; (2) Demolish the front porch extension. (3) Remove all resulting materials, rubble and general detritus from the Land following compliance with step 1 or step 2 above (as applicable).
  - The period for compliance with these requirements is 3 months.
  - The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Act.
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### Formal Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

### Ground (a), planning merits: *Main issue*

2. The main issue in the ground (a) appeal is the effect of the development on the character and appearance of the host property and the wider area.

### Planning policy

3. The Development Plan [DP] includes the Waltham Forest Local Plan - Core Strategy [CS] and the Waltham Forest Development Management Policies Local Plan [DMP], which were adopted in 2012 and 2013, respectively. Although the CS is broadly contemporary with the National Planning Policy Framework ["the Framework"], neither party has given me reason to find, applying paragraph 215, that relevant CS Policy CS15 is inconsistent with the Framework. In these circumstances I attach relevant CS Policy CS15 significant weight. Relevant DMP Policies include DM 4 and DM 29, which plainly post-date the Framework.
4. Paragraph 5.1 and 5.5 of the supporting text to DMP Policy DM 4 contain cross references to the "*Residential Extensions and Alterations SPD*", which accords with best practice and reflects the definition of SPD in the Framework. In the circumstances, whilst the SPD was adopted in February 2010 and predates DMP Policy DM 4, it is appropriate to attach substantial weight to the SPD.

### Reasons

5. No 131 is a 2-storey terraced house in a Victorian street of similar properties. My site inspection confirmed that the 2-storey dwelling houses along Norman

Road are typically characterised by relatively modest bay windows with period detailing. The Council has shown that this is what existed prior to the works at issue<sup>1</sup>. Whilst the photographs that have been provided by the Appellant show that there is some variation in the street scene, front projections remain the exception and I entirely reject the contention that the locality is dominated by such extensions to the point where they now characterise the street scene. Moreover there are very few properties with extensions across the majority of the width of the façade, such as has been erected at the appeal site.

6. By virtue of incorporating the bay window the extension has compromised this architectural feature of the host property and thereby undermined this characteristic feature of the houses in the street of which it forms part. The front extension is relatively deep, filling over 40 % of the depth of the modest front garden forward of the 2-storey face, which means the extension stands materially forward of the building line. It is also relatively high, being up to the sill level of the windows on the adjacent property at No 129, with the eaves height materially above the eaves height of the front projection at No 133. The overall effect is to make the front extension dominant in the street scene.
7. The flank wall facing towards No 129 is visible from the junction of Norman Road and Mayville Road by virtue of its forward projection and height. Whilst the planning application form<sup>2</sup> says that the walls are proposed to be rendered, at present the bricks on that flank wall are not, but do not match those evident on the façade of No 129 either. Indeed given that the bricks on the flank wall run seamlessly into the front boundary wall it is far from clear, despite what is said on the application form, whether it is proposed to render the flank wall. Although the existing front projection at No 133 mitigates the impact of the front projection to some extent when seen on approach from the north-east, the extension is still obtrusive because it projects both forward of it and above the existing eaves and ridge height of the existing front extension to No 133.
8. For these reasons I find that the front porch extension does detrimentally affect the character of the original building and does not use traditional materials to match those on the adjacent property, contrary to paragraph 5.2.3 of the SPD<sup>3</sup>. Contrary to DMP Policy DM 4 A) the extension does not i) relate well to the original 'host' building and respect the street scene and character of the area, or ii) retain existing 'traditional' features, such as the bay window, or materials. The extension fails to meet criteria i), ii), iv), vii) and viii) of DMP Policy DM 29 A) because, amongst other things, it fails to respect its context in terms of its scale, height, and massing, or reinforce local character and distinctiveness. As such the extension is not high quality architecture and urban design, fails to give strong recognition to local distinctiveness and does not sensitively address issues of height and scale, contrary to criteria A), B) and C) of CS Policy CS15.
9. On the main issue I conclude that the development harms the character and appearance of the host property and the wider area, contrary to CS Policy CS15, DMP Policies DM 4 and DM 29, and the SPD. Although I have taken account of the Appellant's Statement of Case, final comments and all other material before me, there are no material considerations that indicate that the determination should be made otherwise than in accordance with the DP.

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<sup>1</sup> See photograph at Appendix A to the Council's statement, which also shows much deeper first floor windows.

<sup>2</sup> Answer to question 11 on the planning application form [which was refused by the Council under its reference 152542/HOU] that has been submitted as part of this appeal. No appeal was lodged against the planning refusal.

<sup>3</sup> Given the allegation in the enforcement notice I have focussed on that part of the SPD concerned with porches.

### **Ground (f)**

10. Section 173(3) of the Act says a notice shall specify the steps required to be taken in order to achieve any of the purposes set out in, amongst others, section 173(4)(a) of the Act. Those purposes include remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted or restoring the land to its condition before the breach took place. The requirements of the enforcement notice as issued sets these alternatives out clearly and precisely, including by reference to the deemed planning permission granted by Article 3 and Class D of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015. The third requirement is merely a consequence of the substantive requirements. In these circumstances the requirements of the notice are appropriate and reflect the provisions of the Act.
11. The grounds of appeal suggest that the requirements are excessive for the reasons given as to why the ground (a) should succeed. However I have given reasons why the ground (a) should fail and with its demise there is no basis to find that the requirements are excessive. This is not a case where a negotiated solution could have avoided enforcement action because conditions could not overcome the planning objection. In reaching this view I have taken account of the other developments in the area, but that does not advance ground (f).
12. In the circumstances I conclude that no reason is advanced as to why the requirements of the notice exceed what is necessary to remedy the breach, which is the limited scope of the ground (f) appeal in this case. As such, this ground of appeal must fail.

### **Ground (g)**

13. The Appellant seeks 6 months in order to source a reputable builder to undertake the physical alterations and to allow for the Appellant's family to make alternative and necessary arrangements whilst works are underway. However I fail to see why a builder cannot be engaged in good time who could thereafter undertake the required works within the period set out in the notice. There is no evidence that the extent of the works concerned is so extensive as to require the occupants to vacate the dwelling whilst those works take place. It is likely that acrow props could be used to support the first floor of the dwelling whilst the works were done such that the actual works of demolition and rebuilding might be capable of being substantially completed in a matter of days. Whilst those works might need plastering or other superficial works there is no evidence to show that the entirety of the works could not be completed within 3 months. For these reasons the ground (g) must also fail.

### **Conclusion**

14. For the reasons given, and having regard to all other matters raised, I conclude that the appeal should be dismissed and I shall uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

*Pete Drew*  
INSPECTOR