
Appeal Decision

Site visit made on 6 February 2018

by Diane Fleming BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2018

Appeal Ref: APP/G5750/C/17/3179631

138 Bristol Road, Forest Gate, London E7 8QF

- 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 Ayyaz Ahmed against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice was issued on 9 June 2017.
 - The breach of planning control as alleged in the notice is, without planning permission, the erection of a rear extension.
 - The requirements of the notice are to
 1. Demolish the extension (as shown edged in blue on the plan attached to the notice and as shown edged in yellow on the photograph attached to the notice).
 2. On completion of step 1, to remove all materials and debris from the site.
 - The period for compliance with the requirements is three 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. 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 1990 Act as amended.

Procedural Matter

2. At the time when the notice was issued, the rendered side elevation of the development extending above and to the side of the red brick boundary wall flanking Bath Road was painted white. This is shown in the appellant's photograph received by the Council on 16 May 2017. At the time of the site visit I saw that the rendered area is now painted red to match the bricks. However, it is the appearance of the extension at the time when the notice was issued that is the appeal before me now.

The ground (a) appeal and the deemed planning application

Main Issue

3. The main issue is the effect of the development on the character and appearance of the host building and the surrounding area.

Reasons

4. The appeal concerns an end of terrace property situated on the corner of Bristol Road and Bath Road. The surrounding area is residential in character and comprises largely Victorian housing stock arranged in terraces interspersed

with 1930s housing. Rear gardens are small and this results in a compact housing layout. Original doors and windows have been replaced in the main but the presence of street trees and the standard of upkeep of the properties in the area contribute towards the attractive character and appearance of the neighbourhood.

5. The appellant has erected a single storey, rear extension which the Council advise has an overall depth of 4.8m. At the rear of the property there is a half width, two storey, projection. Prior to the development the subject of the notice, the appellant had erected a single storey, rear extension that infilled the side return and linked to the single storey, lean-to on the end of the two storey projection. The latest extension differs substantially from its original form in terms of roof design, window layout, external finish and the removal of the side door opening onto Bath Road. The differences are so significant that the Council are of the view that the extension is a new development.
6. At the site visit I saw that the extension has been built on the side boundary wall adjacent to the pavement on Bath Road. Where it projects above the boundary wall, by about a metre, and where the former side door opening has been infilled, it has a smooth rendered finish that was painted white. There is a shallow pitch to the flat roof which is finished with a white fascia board along the Bath Road elevation and a deep overhang, approximately 0.65m in depth, on the elevation overlooking the garden.
7. The siting of the extension on the boundary with the pavement, together with the stark and contrasting appearance of the white painted render, the deep fascia board and the overhanging eaves, results in an unduly prominent and bulky addition to the host property and the street scene. In addition, the size of the extension dominates the appearance of the rear of the host property and what remains of the garden area. This is due to its substantial depth in comparison with the size of the plot, which is already reduced in size by the presence of a detached outbuilding.
8. The appellant submits that the Council's actions are excessive as the site does not lie within a conservation area and the dwelling is not a listed building. However, the National Planning Policy Framework (the Framework) sets out that planning should always seek to ensure high quality design and that the Government attaches great importance to the design of the built environment. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.
9. For these reasons it is concluded that the development has resulted in harm to the character and appearance of the host building and the surrounding area. The development therefore does not accord with Policies S6, SP1, SP3 and H1 of the Council's Core Strategy (CS)¹, Policy SP8 of the Council's Development Plan Document² and Policies 7.1, 7.4, 7.5 and 7.6 of The London Plan³. These require amongst other matters that new development should be of a high quality; and that it should enhance the public realm and respond to the positive character of the borough's neighbourhoods. I give significant weight to the

¹ Newham's Local Plan – The Core Strategy Adopted Version January 2012

² Newham's Local Plan – Detailed Sites and Policies Development Plan Document Adopted Version October 2016

³ The London Plan, The Spatial Development Strategy for London Consolidated with Alterations since 2011, March 2016

Council's CS as it is consistent with the Framework's requirement for good design. The appeal on ground (a) therefore fails.

The ground (f) appeal

10. The appeal on ground (f) is that the requirements of the notice exceed what is necessary to achieve the purpose of the notice. The purposes of an enforcement notice are set out in section 173 of the 1990 Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)). In this case the notice requires that the extension is removed from the building. I therefore consider that the purpose of the notice is to remedy the breach of planning control.
11. The appellant submits that the steps required are excessive and that the Council could have negotiated with the appellant to achieve a mutually beneficial agreement after surveying what developments have already taken place in the area. In addition, it was open to the Council to impose conditions regarding the height of the roof and the quality of the finish of the extension.
12. However, in pleading ground (f), the onus is on the appellant to state the precise details of any lesser steps at the time of his appeal otherwise it is not possible to judge whether the Council's requirements are excessive or not. If I were to allow the appeal on ground (f) then I would need to vary the requirements of the notice in such a way that unambiguously sets out what needs to be done. The appellant has not identified any detailed lesser steps and as such I am not able to vary the requirements.
13. I therefore find, for the reasons given, that the steps required by the notice do not exceed what is necessary to remedy the breach of planning control and the appeal on ground (f) fails.

The ground (g) appeal

14. This ground of appeal is that the time given to comply with the requirements of the notice is too short. It is therefore limited in scope to a consideration of the actual time needed to carry out the work or action specified in the steps.
15. The appellant submits that three months is not a reasonable period of time to comply with the requirements of the notice and that this should be increased to between six months and a year. The appellant needs time to make alternative arrangements whilst works are underway.
16. It is considered that to extend the period of time to a year would be tantamount to the grant of a temporary planning permission, which would not be appropriate. The appellant's case relates to the time before the works can commence when a builder is appointed and alternative arrangements are made. Whilst the appellant's concerns are understandable, he provides no substantiated evidence as to precisely how long he will need. The extension is single storey and I consider its removal by a competent builder could be achieved in the time specified. An extension of time has not been justified in any detail and it is therefore considered that the time period for compliance is reasonable and as such I see no reason to vary it. The appeal on ground (g) therefore fails.

Conclusion

17. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

D Fleming

INSPECTOR