
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/17/3179283
77 Buxton Road, Stratford, London E15 1QX

- 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 Dawood Patel 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 roof extension.
 - The requirements of the notice are to
 1. Demolish the roof extension (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.

The ground (a) appeal and the deemed planning application

Main Issue

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

Reasons

3. The appeal concerns a mid-terrace, Victorian house situated in a residential area. The surrounding area has undergone various changes over the years and what was once a largely Victorian street of terraced housing now contains small blocks of more modern housing and a school. The appeal site is part of a terrace of ten houses adjacent to the school playground.
4. One of the principle features of many of the terraces is the use of a butterfly roof structure. This results in the roof being hidden from the front elevation as it sits behind a parapet wall. The rendered cornice on top of the parapet wall is a key element in the consistent appearance of the terraces in the road and the surrounding area. Whilst original windows and doors have often been replaced, the butterfly roof, together with the regular pattern of window and door

openings along the terraces, maintains their uniform appearance and adds to the attractive appearance of the area.

5. The appellant has infilled the two halves of the butterfly roof and extended it upwards above the height of the chimney stack and front parapet wall. The dwelling now has a rendered gable end roof facing the front and rear of the property, which is painted white to match the painted front and rear walls. Black plastic guttering runs across the face of the gable and connects to a downpipe to one side of the front elevation. A similar arrangement exists at the rear.
6. The extension has resulted in an unduly prominent addition to the dwelling and an incongruous feature that is also at odds with, and harms, the largely uniform appearance of the rest of the terrace. It is visible in long distance views from the surrounding area, not only due to its height but also due to the use of red concrete roof tiles and the white painted gable ends. In addition, the siting of the rainwater goods on the front elevation of the dwelling detracts from the attractive original detailing, such as the decorative moulded window surrounds.
7. A smaller roof extension has been added in the past at No 87 further along the terrace. It differs from the extension at the appeal site in that it is significantly lower in height and is largely hidden by the parapet wall. However, from the rear it appears as an awkward juxtaposition with the neighbouring butterfly roofs. It appeared to be the only extension to a butterfly roof in the immediate area of the appeal site. Whilst I do not know the circumstances or the policies that applied at the time of its consideration, the effect of the design on the rear of the terrace serves to confirm that even modest roof extensions can result in harm to the integrity of the roofline of the terrace.
8. 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 and 7.6 of The London Plan³. These require amongst other matters that new development should be of a high quality; and that it has regard to and respects local distinctiveness and the existing pattern of development. I give significant weight to the Council's CS as it is consistent with the National Planning Policy Framework's requirement for good design. The appeal on ground (a) therefore fails.

The ground (f) appeal

9. 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 roof extension is removed from the building. I therefore consider that the purpose of the notice is to remedy the breach of planning control.

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

10. The appellant submits that he will show that he can make alterations to meet the requirements of the notice. However, 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 adequately identified the lesser steps and as such I am not able to vary the requirements.
11. 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

12. 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.
13. The appellant submits that he will need one year to remove the roof extension but provides no explanation as to why this longer period would be necessary. The roof extension does not provide additional living accommodation and there is no staircase providing access to it from within the dwelling. 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. Given the limited effect of the roof extension on the internal layout of the dwelling, three months would be a reasonable period of time to carry out the specified works. The appeal on ground (g) therefore fails.

Conclusion

14. 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