
Appeal Decision

Site visit made on 4 April 2018

by D A Hainsworth LL.B(Hons) FRSA Solicitor

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

Decision date: 11 April 2018

Appeal Ref: APP/G5750/C/17/3181184

Land at the rear of 32 Plashet Grove, East Ham, London E6 1AE

- The appeal is made by Minhaz Patel under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: 17/00447/ENFA) issued by the Council of the London Borough of Newham on 14 July 2017.
 - The land affected by the notice is described in the notice, as issued, as "Land at 30 Plashet Grove ... (including land to the rear of 32 Plashet Grove ...) ... shown edged red on the attached plan".
 - The breach of planning control alleged in the notice, as issued, is "the erection of an extension".
 - The requirements of the notice, as issued, are as follows: -
 - "1. Demolish the extension (as shown edged in blue on the attached plan, and as shown edged in yellow on the photograph attached at Appendix 1)
 - 2. On completion of step 1 above, remove all materials and debris from the site."
 - The period for compliance with these requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g).
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Correction of enforcement notice

1. I established at the site visit, in consultation with the appellant and the Council's representative, that the enforcement notice is only intended to relate to the structure shown edged in yellow on the photograph. This structure is on land at the rear of 32 Plashet Grove, but it is not joined to No 32. It has its own separate external access from a roadway that leads from Plashet Grove to several properties. The only internal access to it is from an adjoining structure at the rear of No 30.
2. The notice as issued is therefore flawed, since it affects more land than it should do and some of the descriptions used in it are inaccurate. I am authorised by section 176 to correct any defect, error or misdescription in the notice, if I am satisfied that no injustice will be caused. No injustice will occur in this instance, because the changes I have made (see paragraph 3 below) reflect the Council's intentions and reduce the scope of the notice.

Decision

3. It is directed that the enforcement notice be corrected by (a) replacing the description in paragraph 2 of the land affected by "Land at the rear of 32 Plashet Grove, East Ham, London E6 1AE shown edged and hatched in black on the attached plan", (b) replacing the plan attached to the enforcement notice
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by the plan attached to this appeal decision, (c) replacing the description in paragraph 3 of the alleged breach of planning control by "Without planning permission the erection on the land of the structure shown edged in yellow on the photograph attached at Appendix 1" and (d) replacing sub-paragraph 1 in paragraph 5 by "1. Demolish the structure described in paragraph 3 above".

4. Subject to these directions, the appeal is dismissed, the enforcement notice is upheld as corrected and planning permission is refused on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990.

Reasons for the decision

Ground (a)

5. The main issues in deciding whether planning permission should be granted for the structure concern its size and appearance and the impact of its use.
6. The appellant has put forward five reasons why he considers permission should be granted. The first three relate to the character of the site and its surroundings. The fourth concerns business needs and the last refers to security matters. I have dealt with these reasons in paragraphs 7 to 10 below and then reached an overall conclusion.
7. The structure is unfinished and I agree that its appearance could be improved by completing its construction, although no details have been provided of the works that would be carried out. I also accept that the surroundings contain structures that are unattractive, but the objective of the planning policies is that new structures should improve rather than replicate existing conditions.
8. I do not consider that the finished structure could fulfil this objective. It would inevitably look bulky and utilitarian. It would also take up most of the open area at the rear of No 32, leaving that property with a narrow passage to its rear door and inadequate space for everyday external activities and storage.
9. The structure would be used in connection with the business called Buzz Lounge, which operates at No 30 as a shisha lounge. I understand that this business does not have planning permission and that enforcement action has been taken in respect of it, including an appeal in 2013, because it results in noise and smells that significantly harm the living conditions of nearby residents. Granting permission for the structure would be likely to prolong the harm that is occurring.
10. Lastly, the appellant's argument about security is unconvincing. There are better means available to secure the open area at the rear of No 32 than erecting a structure on it that could itself be a target for break-ins and which would leave an insecure passage between it and the rear door of No 32.
11. For the above reasons I have concluded that planning permission should not be granted for the structure. The appeal on ground (a) has therefore failed.

Ground (g)

12. The appellant points to the impact the requirements of the notice could have on the viability of the business and requests an extension of the compliance period from 3 months to 9 to 12 months to facilitate relocation. The structure was not in use at the time of my visit, apart from an accumulation of discarded items, and the impact that its removal would have on the business is not obvious. In any event, I understand that the use by the business of No 30 as a shisha lounge is required to cease by an enforcement notice.
13. The appeal on ground (g) has failed, since 3 months is a reasonable period to allow for the demolition of the structure in these circumstances.

D.A.Hainsworth

INSPECTOR