
Appeal Decisions

Site visit made on 13 April 2018

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 18 April 2018

Appeal A - Ref: Notice 1: APP/G5750/C/17/3181174

Land at 23 Woodside Road, Plaistow, London E13 8RX

- 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 Mrs Petronella Enache against an enforcement notice issued by the London Borough of Newham.
 - The enforcement notice (ref 16/00959/ENFC) was issued on 30 June 2017.
 - The breach of planning control as alleged in the notice is the erection of a roof extension.
 - The requirements of the notice are as follows:
 1. Demolish the roof extension (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 the requirements is three months.
 - The appeal is proceeding on the ground (a) only, as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
-

Appeal B - Ref: Notice 2: APP/G5750/C/17/3181175

Land at 23 Woodside Road, Plaistow, London E13 8RX

- 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 Mrs Petronella Enache against an enforcement notice issued by the London Borough of Newham.
- The enforcement notice (ref 16/00959/ENFC) was issued on 30 June 2017.
- The breach of planning control as alleged in the notice is the erection of ground floor and rear extensions.

The requirements of the notice are as follows: **Either**

1. Demolish the ground floor rear extension (as shown edged in blue on the attached plan and as shown edged in yellow on the photograph attached at Appendix 1).
2. Demolish the first floor rear extension (as shown edged in green on the attached plan and as shown edged in yellow on the photograph attached at Appendix 2).
3. Remove from the site all debris arising from compliance with the above step (sic).

Or

1. Alter the ground floor rear extension (as shown edged in blue on the attached plan, and as shown edged in yellow on the photograph attached at Appendix 1) and the first floor rear extension (as shown edged in green on the attached plan, and as shown edged in yellow on the photograph attached at Appendix 2) so that they are built in accordance with those plans approved as part of planning application Reference 16/02529/HH (drawing numbers SE1336-03 and SE1336-04).
 2. Remove from the site all debris arising from compliance with the above step.
- The period for compliance with the requirements is three months.
 - The appeal is proceeding on grounds (c) and (f), as set out in section 174(2) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as
-

amended have lapsed.

Decisions

1. Appeal A is allowed subject to a condition. See formal decision below.
2. Appeal B is dismissed. See formal decision below.

Matter of clarification

3. I have dealt with the appeals in the order they were validated and accepted by the Planning Inspectorate. That is, Appeal A (3181174), Notice 1, relating to the roof extension and Appeal B (3181175), Notice 2, relating to the rear ground and first floor extensions. This is different to the Council's references in paragraph 1.3 of its Appeals statement. However, this does not affect the parties' arguments put forward in relation to the two appeals for the two different parts of the property. Ground (f) was added to Appeal B in October 2017.

Background information, planning history, relevant policy and guidance

4. The appeals property is a two storey terraced dwelling located on the south side of Woodside Road. The surrounding area is predominantly residential and is comprised of terraced properties of a similar age; many of which have been altered and extended over the years. During my site visit I noted that these alterations included roof extensions and rear single and two storey extensions. I was also able to view the similar examples of development referred to by the appellant and also noted the positions of the surrounding dwellings from the rear garden of No 23. The property is not listed and is not located within a conservation area.

5. The property has a detailed planning history. Two previous enforcement cases are stated to have been closed. One related to a rear extension, the other to a front porch. In addition to the two current notices/appeals, the Council also refers to another enforcement case which is 'pending consideration'. This is referenced 16/01497/ENFCEN and is stated to relate to compliance with enforcement notice 13/02189/ENFC and that the date for compliance is 04.10.2016 following dismissed appeal 16/00022/ENFNOT.

6. A retrospective application (16/02530/HH) for construction of a loft conversion including rear dormer was refused planning permission. This was for the same roof extension as now being considered in Appeal A. Another retrospective application (16/02529/HH), for a ground floor and first floor rear extension with proposed alterations, was approved. This is the approval referred to in the alternative requirements in Notice 2. In 2013 a proposed ground floor rear/infill extension and first floor rear extension had also been approved (13/01583/HH). Various Building Control Certificates and approvals have also been issued including one for the rear infill first floor and loft conversion referred to above (15/02083/Al).

7. Relevant development plan policies include Policies 7.1 (Lifetime Neighbourhoods), 7.4 (Local Character) and 7.6 (Architecture) of The London Plan, Spatial Development Strategy for London (LPSDS); Policies S6 (Urban Newham), SP1 (Borough-wide Place-making), SP2 (Healthy Neighbourhoods), SP3 (Quality Urban Design within Places) and H1 (Building Sustainable Mixed Communities) and Policy SP8 (Ensuring Neighbourly Development) of the Newham Detailed Sites and Policies Development Plan (DSPDPD).

8. The National Planning Policy Framework (NPPF) is a major material consideration and I have taken it into account in reaching my decisions. In particular I have had regard to the presumption in favour of sustainable development have considered, amongst others, paragraphs 12, 53, 56, 58, 64 and 207 as referred to by the Council.

I have also taken into account relevant guidance set out in the national Planning Practice Guidance (PPG).

Appeal A on ground (a)

9. Despite the advice given to the appellant, the roof extension, as built, does not constitute permitted development under The Town and Country Planning (General Development) Order 2015 (GPDO).

10. To be considered as permitted development the works fall to be assessed under Schedule 2, Part 1 Class B, of the GPDO. Although Class B permits the enlargement of a dwelling consisting of an addition or alteration to its roof, the GPDO specifically sets out situations whereby '*Development is not permitted*'. In this case the works to the roof extension contravene B.2, b.i. (bb) in that the edge of the enlargement, closest to the eaves (in this case both of the extended lower walls), is less than 0.2 metres from the eaves when measured along the roof slope from the outside edge of the eaves.

11. In fact there is no distance at all between the former eaves and the start of the roof extension. This is because the roof extension has been constructed directly on top of the rear and side walls of the property. In effect what has been created is not a roof extension that complies with permitted development rights but an extension of the property above first floor level. The Council also considers that the works contravene part B.2, a. of the GPDO in that the materials used are not of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.

Main Issue

12. The main issue is the effect that the roof extension works have had on the character and appearance of this part of the Borough.

Reasons

13. The appellant refers to the fact that the works comply with the Building Regulations and that there is a party wall agreement in place with the owners of the neighbouring property. I have noted all of the comments in relation to these two points. However, in planning terms, these matters do not assist the appellant's case in considering whether or not permission should be granted for the works carried out.

14. The starting point, in this consideration, is the development plan. Planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The material considerations include the NPPF, PPG and local supplementary planning guidance where appropriate.

15. In this case the Council considers that the roof extension fails to respect the scale, form and character of the original dwelling due to what they refer to as its bulky, overbearing and visually incongruous appearance. It is considered to be contrary to the relevant development plan policies, as well as to policies within certain sections of the NPPF. The Council sets out these objections in their reasons for issuing the notice, as well as in their refusal for the retrospective application for the retention of the works as carried out.

16. Having seen the works, I accept that they are not visible from the public realm to the front of the property and the height does not exceed the original ridge. However, they are highly visible from the rear garden and thus from other nearby dwellings. I agree with the Council that, overall, the works are bulky and incongruous. I particularly share the Council's concerns about the finishing materials and agree that these exacerbate the bulk and scale of the roof extension through their dominant and contrasting colour.

17. However, L-shaped roof extensions generally result in additions which appear to be bulky in terms of overall form and shape. In this particular case, if the requirements of the GPDO had been met the overall size, or bulk, of the extension would only have been marginally different to what has been built. In terms of overall form this would have been more acceptable but hardly noticeable, in my view, when compared with what has been built.

18. The roof extension as built does not extend beyond the height of the original roof ridge line and, other than the question of outlook, there are no issues regarding the effect of the works on the living conditions of those occupying nearby dwellings. Despite its overall bulk and massing I consider that it is acceptable in principle. But, when seen together, the overall bulk and the chosen finishing materials are unacceptable and visually harmful.

19. However, it is my view that if sympathetic finishing materials were to be used the overall perception of the extension and particularly its bulk and massing would be acceptable in visual terms in this location. I consider, therefore, that in this particular case a planning condition could overcome the harm caused by the roof extension as built. I consider it appropriate, therefore, to grant planning permission for what has been built but only subject to a condition relating to the replacement of the materials used with finishes more in keeping with the existing materials of the existing building and the adjacent roofscapes. Appeal A succeeds, therefore, on ground (a) and a conditional planning permission will be issued.

Appeal B on ground (c)

20. I am not empowered to consider whether or not planning permission should be granted for the rear ground and first floor extensions. Under this ground I can only consider whether or not the works as carried out constitute a breach of planning control. The works do not benefit from permitted development rights under the GPDO and cannot benefit from the '*prior approval*' process, since the ground and first floor extensions have already been built.

21. I note that the appellant contends that the development enforced against benefits from a planning permission granted on 20 March 2017 with '*small alterations*'. This approval (reference 16/02529/HH) was granted retrospectively for the '*ground and first floor rear extension with proposed alterations*'. However, the Council indicates that this permission has not been implemented and in particular that the '*proposed alterations*' have not been carried out in accordance with the permission.

22. In particular, these alterations entail re-rendering, a reduction in height and different windows to the rear. It is evident that some of these works have been completed and I also noted that the height and pitch of the rear extension matched that of the adjoining property. From my inspection of what has been built it would appear that only a few minor amendments are now necessary for the development to comply with the approved scheme. I consider that the works carried out should be amended to accord with the permission granted.

23. Clearly, there is no need to demolish the rear extension since it is evidently possible to comply with the previous permission. As indicated above I am not empowered to consider whether or not planning permission should be granted for the works as carried out. These works differ materially from the permission granted and thus there has been a contravention of planning control. The appeal must fail, therefore, on ground (c).

Appeal B on ground (f)

24. Under this ground it appears that the appellant is claiming that it is excessive to require the roof height and window amendments to be in accordance with the retrospective permission. It is indicated that the rendering has already been carried out, that the roof is not higher than that of the neighbouring property and that the window needs to be retained as a fire window (presumably escape window).

25. Having inspected the rear extension I accept that some of the works (required by the notice) have already been carried out and that the rear extension roof is not higher than that of the neighbouring property. The notice was issued in order to rectify the breach and the requirement is to alter what has been built so that the rear extension is built in accordance with those plans approved as part of planning application reference 16/02529/HH (see above). I have referred to the works which are still to be carried out and I do not consider it excessive to require the other works to be completed. The appeal on ground (f) therefore fails.

Other Matters

26. In reaching my conclusions in both appeals I have taken into account all of the other matters raised by the appellant and the Council. These include the full planning history; the references to the NPPF and development plan policies; the initial grounds and facts; the statements and additional ground arguments; all of the annotated photographs; the submitted appeal decision and the other dormer and rear extensions referred to by the appellant.

27. However, none of these carries sufficient weight to alter my findings in relation to the grounds pleaded for each appeal. Nor is any other factor of such significance so as to change my decisions in these appeals.

Formal Decisions

Appeal A

28. The appeal is allowed and the enforcement notice is quashed. Planning permission is granted for the retention of a roof extension at 23 Woodside Road, Plaistow, London E13 8RX subject to the following condition:

- i) Within 3 months of the date of this decision a scheme indicating alternative finishing materials to the roof extension (mainly the replacement of the red tiles) shall have been submitted for the written approval of the Council and the scheme shall include a timetable for its implementation.
- ii) If within 9 months of the date of this decision the Council refuses to approve the scheme or fails to give a decision within the prescribed period, an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Appeal B

29. The appeal is dismissed and the enforcement notice is upheld.

Anthony J Wharton

Inspector