



Appeal Decision

Site visit made on 4 July 2019

by Anthony J Wharton BArch RIBA RIASI

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

Decision date: 19 July 2019

Appeal A - Ref: APP/G5750/X/18/3211161 99 Stamford Road, London E6 1LP

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mrs Hazrat Hussain against the decision of the London Borough of Newham
 - The application Ref 18/02380/CLE, dated 20 July 2018 was refused by notice dated 20 August 2018.
 - The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development] for which a certificate of lawful use or development is sought is a: 'C3 residential property with on-going works for loft conversion less than 40 cubic meters with rear dormer'.
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Appeal B - Ref: APP/G5750/C/18/3213912 99 Stamford Road, London E6 1LP

- The appeal was 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 Hazrat Hussain against the decision of the London Borough of Newham
 - The enforcement notice, reference 18/00453/ENFB, was issued on 14 September 2018.
 - The breach of planning control as alleged in the notice is: the erection of a rear extension comprising additions at ground floor, first floor and roof level.
 - The requirements of the notice are as follows:
 1. Demolish the rear extension comprising additions at ground floor, first floor and roof level as shown in the approximate location edged blue on the attached plan and as outlined yellow on the photograph attached at Appendix 1) and return the property to its form prior to the unauthorised works being undertaken (as shown in the aerial imagery attached at Appendix 2).
 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 grounds (a), (c) and (f) as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
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Decisions

1. Appeal A is dismissed and a Lawful Development Certificate is not issued.
2. Appeal B is also dismissed. See formal decisions below.

Matters of clarification

3. The two appeals are inextricably linked in that the appeal against the refusal of the LDC application (Appeal A) and the appeal against the enforcement notice (Appeal B) relate to some of the same works as carried out at the property. However, the LDC appeal only relates to the Loft Conversion works and I cannot consider whether or not

the other elements of the works constitute permitted development. The enforcement notice relates to the same Loft Conversion works, as well as the extensions carried out at first floor and ground floor levels. These are outlined in Appendix 1 to the notice.

4. I do not accept the appellant's contention that the enforcement notice was illegally issued. It has all of the necessary constituent parts and sets out in full the reasons why it was issued. The LPA was not required to set out details of the previous applications in the notice and nor is an LPA required to await the outcome of any planning or LDC appeal before issuing a notice.

5. I am only empowered to deal with the LDC appeal relating to application 18/02380/CLE and the appeal against the Enforcement Notice both as set out above. I have noted all of the other applications in relation to the detailed planning history of the property. These are numbered 1 to 7 in the information submitted following my request to have them available for the site visit. The information includes the latest planning application (Application 7, 19/00391/HH) which was not considered by the LPA.

6. Clearly all of the applications and the previous appeal (APP/G5750/D/18/3210587), relating to a refusal of permission for a side and rear extension, are material to the two appeals before me, in that they are part of the planning history of No 99. I have taken all of them into account in reaching my decisions but am not empowered to reconsider any of the other decisions made by the Council or the previous Inspector.

7. Nor am I empowered to deal with any grievances that the appellant has in relation to the way that the LPA dealt with the numerous applications. These are matters outside of my remit and are for the parties to consider. As indicated above I have been provided with all of the relevant drawings for the various applications numbered 1 to 7 in the document submitted following my site visit. I refer to these in more detail below.

8. After considering the appellant's cases for both Appeals A and B, I consider it necessary to clarify exactly what is before me in order to dispel any misunderstandings relating to the appeals. There appears to have been some confusion on the part of the appellant regarding the LDC appeal (Appeal A). In the appeal statement, dated 11/9/18, it is stated that the appeal against the LDC refusal is being made on 'Ground (a)'. The statement goes on to state that: *'planning permission should have been granted for what is alleged in the application'*.

9. However, in an LDC case a LPA can only make a decision relating to the lawfulness of the existing or proposed development (in this case the existing Loft conversion works). What is being considered in Appeal A is not whether planning permission should be granted for the Loft Conversion and dormer works, but whether or not the works carried out were lawful (on the date of the application) in that they complied with the requirements of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended 2016 (GPDO), such that express planning permission was not required.

10. In other words that the works as carried out (Loft Conversion) constituted 'permitted development' (PD). The appellant has agreed with the Council that the intention of Applications 5 and 6 was to regularise the loft conversion and the rear dormer and this is confirmed in the Council's Delegated Report dated 20 August 2018.

11. If not permitted development, the question of whether or not express planning permission should, or should not, be granted for the 'Loft Conversion' works (together with the ground and first floor works) is considered in Appeal B (the enforcement appeal), under Ground (a). This is the 'deemed' application under section 177(5) of the Act. Thus a LDC cannot be appealed on 'ground (a)'.

The appeals dwelling and the surrounding area

12. The appeals dwelling is a terraced property located on the south side of Stamford Road and about midway between Katherine Road to the west and Holme Road to the east. Beyond Holme Road is the A117 which crosses the District underground line near East Ham station, further to the north-east. This part of the Borough is characterised by similar terraced houses with rear gardens which back onto others due to the parallel layout of the roads and streets. The Stamford Road properties on the south side back onto Oakfield Road.

13. During my visit I noted that many nearby dwellings had been altered and extended (including the immediately adjacent houses). I also walked around this part of the Borough and noted examples submitted in support of the appellant's case. The adjacent property at No 97 had been extended into the roof space and No 101 had been extended to the rear by an addition to the off-shoot. Many other dwellings in the locality appear to have had rear extension, roof and dormer works carried out.

Background information and planning history

14. The appellant indicates that the house was purchased in March 2018. On 28 March 2018 a Building Control Application (BCA, Application 1 - 18/80152/MULFB) was submitted to the Council's Building Control section (BC). These works were described as the conversion of the 3 bedroom house into 2 flats; the erection of a rear dormer; the construction of a first floor rear extension and a ground floor rear/side extension. For whatever reason no planning application was made for any of these works.

15. On 12 April 2018 an LDC Application (Application 2, 18/00998/CLP) was submitted for works carried out to the roof level and at ground and first floor levels. The LDC application was refused on 31 May 2018 on the basis that the works carried out did not constitute permitted development. As indicated above, no full planning application had been made at the same time as the BCA and no retrospective applications were made for any of the works carried out until Application 7 was submitted. The drawings for the BCA (Application 1) and the LDC (Application 2) differ considerably from what I inspected on site and what is before me in the both appeals A and B.

16. The appellant stresses that the dwelling was never converted into flats and there is submitted evidence to this effect. A Stop Notice (SN) had been issued by the Council and this was complied with. No enforcement action was taken at that time and a visit by a Council officer on 12 July 2018 established that the house was in use as a single dwellinghouse with one kitchen. This was also confirmed by the BC section following their visits to the premises. However, it is not clear whether or not amended BC drawings were submitted to reflect the differences from the original BC application.

17. Although not converted into 2 flats, alteration and conversion works to the property continued without the benefit of the necessary planning permission and the appellant indicates that many visits were carried out by the BC section but that the final inspection is still awaited. The Council had also received a complaint about the development on 20 May 2018 and it was then that the Enforcement Team (ET) opened the enforcement case (Ref:18/00453/ENFB).

18. Following the refusal of the first LDC (Application 2) the appellant submitted 5 further applications for planning permissions and LDCs. The Council refers to these in its Delegated Report, dated 13 September 2018, relating to the enforcement action. It states that the applications were made in an *'attempt to disaggregate the development and seek regularisation through multiple lesser proposals*.

19. The first of these (in date order) was a LDC application (Application 4 - 18/01585/CLP in the submitted information) dated 04.06.18. This sought to establish that the *'Loft Conversion with the L-shaped dormer'* was lawful for planning purposes. However, this was withdrawn on 10 July 2018. The submitted drawings show the proposed rear elevation of the property being the same as for those shown in the BC application (Application 1). Again, these are nothing like the works carried out and which I saw during my site visit. In particular, the dormer elements are significantly different to what has been built on site and what has been enforced against.

20. The next application (in date order) was a householder planning application (Application 3 in the submitted documents - 18/01699/HH), dated 12 June 2018, for part of the works carried out; namely the single storey side and rear extension. This was refused by the Council on 7 August 2018. An appeal against the decision was dismissed on 23 November 2018 on the basis of significant differences between submitted drawings and what had actually been built; lack of evidence relating to the effect on neighbours and the Inspector's conclusion that he was unable to make a balanced assessment with regard to both local and national planning policy.

21. On 24 July 2018 a further LDC application (Application 5 in the submitted information - 18/02171/CLE) was submitted. This application was refused by a decision dated 7 August 2018. However, the drawings which had been submitted with the application had not been seen or taken into consideration by the planning officer and the Council apologised to the appellant for this error/omission. The Council then opened a new application (Application 6 - 18/02380/CLE) based on the submitted documents but indicated that the decision notice of 7 August 2018 nevertheless still stood. This application is now the subject of Appeal A.

22. The appellant's agent e-mailed the planning officer on 8 August 2018 querying how it was possible that the earlier decision (Application 5) could stand. A request was made that the application be considered by another planner rather than the named officer who is stated to be a *'business support senior officer'*. Clearly the appellant was not satisfied with the manner in which the LPA dealt with the application. However, as indicated above I am not empowered to deal with such grievances and these are matters strictly between the appellant, the Council and/or others.

23. Thus, LDC Application 5 (18/02171/CLE) became LDC Application 6 (18/02380/CLE), the subject of this Appeal A. The appellant indicates that neither application had been published on the Council's website. As indicated above this application was refused and I deal with the Reasons for Refusal (RfR) in my consideration of Appeal A below.

24. With regard to Appeal A, the appellant states that *'the planning application for 99 Stamford Road was taken over by LBNC Enforcement Team for no apparent reason'*. However, the *'planning application'* referred to is the LDC application (Application 6 - 18/02380/CLE) which is the subject of Appeal A. As indicated above the application was refused by the LPA on 20 August 2018 and the LDC appeal was validated on 11 September 2018.

25. Following the initial enforcement complaint in May and the various applications and refusals, the LPA had clearly decided that it was expedient to issue the enforcement notice (dated 14 September 2018) against the development carried out at the property. Although there had been a BCA to the BC section of the Council, the works were still considered by the LPA to constitute unauthorised development for planning purposes. Thus, the LPA's Enforcement Team (ET) had not *'taken over'* the LDC application. They had taken what they considered to be a logical next step in issuing the enforcement

notice against the unauthorised works. Their reasons for issuing the notice are set out in Section 4 (REASONS FOR ISSUING THIS NOTICE).

26. The Council indicates that the appellant/agent had been requested to seek pre-application advice and to submit a full planning application for the works unauthorised works as carried out. This was not taken up. Instead the appellant decided to seek LDCs for the works carried out: hence the Council's reference to the appellant's actions to being seen to '*disaggregate the development and seek regularisation through multiple lesser proposals*'.

27. The appellant was entitled to take that route and, due to the Council's decisions, it has resulted in the two appeals now before me (the LDC appeal and the enforcement notice appeal). However, on 7 February 2019 another application was submitted. This was a retrospective householder planning application (Application 7 - 19/00391/HH) submitted to '*Retain first floor and second floor (Loft) and proposed roof, amendments to ground floor side and rear extension*'. The submitted drawings purported to show what had been built. But the drawings are far from accurate in relation to the three elements of the works carried out which are the subject of the notice.

28. The appellant states that this was '*refused*' by the Council on 13 February 2019. However, it was not considered to be a valid application. It was returned by the Council (on 12 February 2019) under Section 70C of the Act. This section of the Act allows a LPA to decline an application for planning permission, if granting permission would involve granting, whether in relation to the whole or any part of the land to which a pre-existing enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control.

29. Even though the application drawings were not identical to what has been enforced against, the Council took the view that in essence the retrospective application was for the works against which they had taken enforcement action. Clearly the retrospective application referred to the same three elements of the works carried out (Loft conversion works, first floor extension and ground floor extension).

30. The drawings for this retrospective application, amongst other things, purport to show the '*Pre-Existing*' and the now '*Existing*', as built works. However, having seen the submitted drawings for this application (Application 7) they do not correspond to what has been built on site. Amongst other things there are significant differences at the eaves levels of the main roof and the overall forms of the dormer sections.

31. The plan/elevation drawings for this application (Application 7 - 19/00391/HH) indicate set-backs from the main roof eaves, whereas this is not how the L-shaped dormer works have been constructed. The bedroom at second floor level has been constructed directly on top of the first floor wall without a set back from the eaves and there is no set-back of the shower room dormer from the main eaves line of the existing roof slope. The differences are also equally apparent from the rear elevation drawings.

32. In summary on the various applications (1 to 7) and the respective drawings, there are significant inaccuracies and differences between what might have been intended initially and what eventually has been constructed and what I inspected on site. Unfortunately the planning history indicates that, in the absence of an initial planning application (at the time of the BC application) the appellant has attempted to regularise the situation with the multiple applications and has experienced difficulties throughout in liaising with the Council. However, I now turn to consider and assess all of the appropriate and relevant matters in relation to the two appeals before me.

Appeal A

Introduction

33. As indicated above the appellant seeks to regularise the planning position with regard to the Loft Conversion and Dormer works as carried out. This appeal does not relate to the ground and first floor works as carried out. There is no specific planning permission in place for the Loft Conversion and Dormer alterations and the works were not carried out 4 years or more prior to the date of the LDC application which was submitted on 20 July 2018.

34. The main issue, therefore, is whether or not these works complied with Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended 2016 (GPDO) on that date.

35. An appeal relating to the refusal of a LDC application is confined to the narrow remit of reviewing a LPA's reason(s) for refusal. In this case it is necessary to consider the LPA's reasons on two counts. The first is whether or not the fact that the appeal works were carried out contemporaneously with the rest of the unauthorised works, means that they do not constitute permitted development (PD) under the GPDO. The second is whether or not the works carried out meet all of the requirements and conditions of Class B of the GPDO. The planning merits of the case do not fall to be considered. National Planning Practice Guidance (PPG) indicates that an applicant for an LDC is responsible for providing sufficient information to support an application and that, without sufficient or precise information, a LPA may be justified in refusing a certificate. I now consider the issues between the Council and the appellant in respect of each of the reasons for refusal.

The operational development carried out

36. Turning to the first reason for refusal (RfR) the LPA considers that the '*full quantum*' of development on site comprised a '*single operation*' which falls beyond the scope of the class provisions of the GPDO. From all of the submitted documents and drawings and my site inspection I agree with that assessment. The evidence indicates that the basis of works which are the subject of the LDC application were carried out as part of a comprehensive proposal following the submission of the initial scheme which was submitted for Building Control Approval (Application 1).

37. Even though the works now on site are not exactly in accordance with the BC application, there can be no dispute that they were carried out as one overall development, and not as three separate schemes. There is no evidence that the three elements of the works were commenced separately as works which might have constituted PD under the GPDO and the LDC applications were only made after the three elements of work had been substantially completed. The various plans all indicate the three elements of the works in relation to each of the applications. Each set of application drawings shows plans and elevations for all three levels, ground floor, first floor and roof/dormer levels.

38. The submissions also indicate that it was after the various parts of the works had been completed that the appellant '*disaggregated*' these parts and submitted the other LDC and Planning applications (set out above) in an attempt to regularise the situation regarding the operational development carried out. There can be no dispute that this is the case, despite the difficulties which the appellant/agent might have had in negotiating with the Council Officers. However, there is no explanation as to why an appropriate full retrospective application was not submitted earlier (than Application 7) instead of the LDC applications.

39. Turning to this specific appeal LDC application, Class B of the GPDO provides permitted development rights for the '*enlargement of a house consisting of an addition or alteration to its roof*'. In this case the LDC application was made following the completion of works carried out in addition to the Loft and Dormer works. It was not made on the basis that it was simply an addition or alteration to the existing roof of the dwelling house. The '*enlarged part of the house*' relates not just to the works at roof level but also to ground floor rear and side extension and the first floor addition.

40. For the above reasons, therefore, and particularly taking into account how the works were initially commenced and progressed, I do not consider that the application as submitted fell within the provisions of the GPDO. I agree with the LPA that the Loft Conversion and Dormer works cannot logically be considered to be a straightforward addition or alteration to the roof of the house as it existed prior to works commencing.

Whether the Loft Conversion and Dormer works comply with Class B of the GPDO

41. Notwithstanding the above, I have considered whether or not the Loft Conversion and Dormer works in themselves would have complied with Class B had they been carried out as a separate operation, independent of the other works at ground and first floor levels. In order to be '*permitted development*' a proposal must meet all of the limitations and conditions under each class of the GPDO and in this case it must meet all of the requirements of Class B.

42. The Council's second RfR was that the works failed to meet condition B2(b)(i)(bb) due to the lack of an appropriate set-backs from the existing eaves. This condition requires the edge of the roof enlargement closest to the eaves of the original roof (my underlining) so far as practicable to be not less than 0.2m from the eaves measured along the roof slope from the outside edge of the eaves.

43. Having inspected the Loft Conversion as built I noted the two parts of the L-shaped dormer conversion. The outer part (small bedroom), which is constructed on top of the first floor bedroom and roof, does not have any set back and is built flush with the supporting wall below. This was clear from my visit and from the Council's submitted photograph. Despite the drawings submitted for Application 7 it does not, therefore comply with the above condition. The inner dormer, (over the second floor shower room) also is not set back by the required dimension from the eaves line of the main original roof to the house.

44. Although shown as such on the submitted drawings for Application 7, the L-shaped dormer (roof conversion) has not been built like that in reality. In any case, to comply with condition B2(b)(i)(bb) both parts of the dormer would need to be constructed to be not less than 0.2m from the eaves measured along the roof slope.

45. I conclude, therefore that the works as carried out do not meet all of the provisions and conditions of Class B of the GPDO. Thus, on the 20 July 2018, for the reasons set out above, the works as constructed were not lawful for planning purposes. It follows that the Council's decision not to issue a LDC for the Loft Conversion and Dormer works was sound. Appeal A is, therefore, dismissed and a LDC will not be issued.

Appeal B

Introduction

46. The notice relates to the three elements of the works as carried out since the property was purchased by the appellant. I have dealt with this appeal on the basis of the whole of the works as set out in the allegation. As indicated above I do not accept that the enforcement notice is '*illegal*' or '*premature*'. In addition it is not necessary for

the allegation and steps required to comply to *'match the reasons for refusal of the previous planning applications'*.

47. The notice was issued because the LPA considered it expedient to do so, having had regard to the unauthorised development carried out at the property and the planning history. The reasons for issuing it were appropriately given and, although it related to the same elements of works overall, its issue was a separate planning action from the various past and future applications, all of which been refused by the Council or the previous Inspector dealing with the appeal against Application 3.

The appeal on ground (c)

48. To be successful on this ground it must be shown that, on the date the notice was issued (14 September 2018), either there was a planning permission in place for all of the works as described in the allegation, or that permission was not required because the operational development constituted permitted development. The merits of the case do not fall to be considered under this ground. The onus is upon the appellant to precisely and unambiguously show that there has not been a breach of planning control in relation to the works carried out.

49. In support of this ground of appeal the appellant stresses that the notice includes the loft conversion. This is not disputed but the notice is not aimed solely at this part of the works. It is then stated that loft conversion works comes under permitted development rights and that the Council should have *'granted the retrospective planning applications and certificate of lawfulness for the loft conversions and if not should have waited for the outcome of two live appeals'*.

50. The appellant then repeats arguments relating to the previous application for an LDC for the same works, as well as repeating points about the Council's mishandling of this previous LDC application. However, I have dealt with those matters above and they do not go to the heart of why this appeal should succeed on ground (c).

51. It is a matter of fact that the Council refused all of the previous *'disaggregated'* applications, including the planning application for the rear and side extension. This was refused by the Council and an appeal against that refusal was dismissed. The Council had previously refused the LDC application for the conversion to two flats and then refused both of the LDC applications relating to the Loft Conversion works. The appellant was then able to appeal the latest refusal for a LDC for these works and I have dealt with that above in Appeal A.

52. Turning back to the situation for this ground of appeal, there is no planning permission in place for the works as alleged in the notice or for that matter, any part of the works. I have already concluded in Appeal A that the Loft Conversion works do not constitute permitted development and the previous Inspector dismissed the appeal relating to the rear and side extension. The works as a whole cannot benefit from permitted development rights.

53. The appellant has failed to show, therefore, that the breach of planning control, as alleged in the notice, has not occurred. Without a planning permission being in place and without any permitted development rights being applicable to any part of the works it follows, therefore, that there has indeed been a breach. It follows that the appeal must fail on ground (c).

The appeal on ground (a)

The Main Issues

54. Having considered all of the representations and having visited the site and the surrounding area, I consider that the main issues with regard to whether or not planning permission should be granted for the works as carried out are as follows:

- The effect of the works on the character and appearance of the area;
- The effect on the living conditions of the occupiers of nearby properties, and
- The effect on the biodiversity values of the site.

55. The relevant policies are Policies 7.1, 7.4, & 7.6 of the London Plan (LP); Policy D1 of the Draft London Plan (DLP); Policies S6, SP1, SP3, H1, SP8, SC1 and SC4 of the now adopted London Borough of Newham Local Plan (NLP). The Supplementary Planning Guidance 'Altering and Extending Your Home' (AEYH/SPD) is also relevant.

56. The National Planning Policy Framework (NPPF) is a major material consideration and any matters raised on the basis of the earlier versions are the same as those set out in the latest 2019 document. I have particularly taken into account the specific references in the document referred to by the appellant and Section 12 relating to the need to achieve well-designed places. I have also taken into account relevant Planning Practice Guidance (PPG). The Council's AEYH/SPD is also a material consideration and this seeks to ensure attractive developments which compliment or complete the character and appearance of the locality

Effect on character and appearance

57. The principle of residential conversions is appropriate and acceptable in this part of the Borough and many nearby dwellings have been altered and extended. On purchasing this property the appellant has stated that it was intended to '*mirror*' the works carried out at the adjacent property. However, having seen both properties the works at No 99 are significantly different to the works carried out at No 97.

58. For a start, the ground floor extension to No 97 does not extend almost the full width of the rear elevation as is the case for No 99. The works to the L-shaped dormer at No 97 are appropriately set back from the original eaves line of the main roof and the main rear extension is a simple two-storey addition extension which leaves adequate space between the two properties at ground floor level. Even though the works are extensive, over three levels at the rear of this property, they are not so significant so as to dominate the form and scale of the original house. The works to No 97, in my view, appear to reinforce the character of the residential area.

59. Unfortunately, I do not consider that the same can be said for the appeal property. The full-width rear and side extension, combined with the first floor and loft level additions have, in my view, resulted in a bulky, obtrusive and overbearing addition to the rear of this simple terraced house. The works are perceived as being a serious and visually harmful overdevelopment of the site. The rear garden feels cramped and the boundary situations on both sides at ground floor level have, in my view, resulted in an overbearing impact for the occupants of the properties on either side.

60. I therefore share the Council's concerns about the impact of the combined works on the character and overall quality of the area, in that they are contrary to the aims of design policies within the NPPF, as well as being contrary to London Plan (LP) Policy 7.1. This policy aims to ensure that new developments and the spaces they create reinforce the character of the neighbourhood. Policy LP 7.4 also requires developments to have regard to the form, function and structure of an area, place or street and Policy 7.6 requires designs to be of high architectural quality and be constructed of materials which compliment the local character.

61. I accept that most of the materials match those of the adjacent property at No 97, but it is the bulk and form of the three elements that combine to produce a most unbalanced and inappropriate overall design. As well as being contrary to the relevant LP and NPPF policies, I also consider that the development is contrary to Policies S6 (Urban Newham); SP1 (Borough-wide place making); SP2 (Healthy Neighbourhoods) and SP3 (Quality Urban Design within places) of the NLP.

62. The AEYH SPD, amongst other things, seeks to ensure that new extensions should generally try to replicate the style, design and detailing of the original house and that any new extension should be subservient to the original house and demonstrate clear set-backs from existing elevations. The appeal development fails, in my view, on both counts. This is due, in particular, to the wrap-around side and rear extension which completely covers the width of the site. In addition the works at roof level are bulky and obtrusive. I agree with the Council that this extension fails to respect the distinct rhythm of the stepped elevations which characterise most of the rest of the terrace.

63. All of the relevant local policies, as well as the AEYH/SPD, echo the LP and NPPF policies relating to the requirement for designs of high quality and one which responds positively to local character and the established pattern of development without being detrimental to neighbouring amenity. I deal with this latter point in the issue below. However, on the first issue, I conclude that the development as built is harmful in contrary to the policies which seek to protect the character and appearance of this part of the Borough. The other material considerations do not outweigh this harm. The appeal on ground (a), therefore, fails on this first issue.

Effect on Living Conditions

64. Policy SP8 of the NLP relates specifically to '*ensuring neighbourly development*' and indicates that such development should not result in adverse impacts on the amenities enjoyed by neighbours. It also refers to boundary treatments.

65. Having seen the works as carried out and particularly the physical boundary relationships with the neighbouring properties on both sides, I again share the Council's concerns about the impact on the living conditions of the occupants of these properties. Having noted the size and bulk of the rear and side extension and having noted the situation regarding windows to the rear of No 101 and the narrow gap left between the houses, I consider that the length, height and overall bulk of this wrap-around rear extension has resulted in a '*tunnelling effect*' between the properties which has a distinctly overbearing impact for the occupants at 101.

66. Although not as much, I also consider that the outlook from No 97 has also been adversely affected by the works carried out at No 99. As indicated by the Council the outlook from the dormer at No 97, which is set further back than that at No 99, will be detrimentally affected. There is clearly a significantly reduced field of vision from the dormer window of No 97 caused by the proximity of both the first floor and loft conversion works at No 99. Again this has the result of being overbearing, in my view, for the occupants of No 97. Although the works can also be seen from Oakfield Road, I do not consider that the impact on those occupants has been significant.

67. Due to the orientation of the appeal property (garden facing south) I also consider that the adjacent properties will have been affected by some loss of direct sunlight and daylight. The rear extension rises up against the western boundary of No 101 and from my inspection I consider that it has not only reduced the amount of daylight reaching the rear main elevation window (due to the '*tunnelling effect*'), it will also have cut out some direct late afternoon and evening sunlight from the west.

68. In relation to the effect on No 97 it will have had an effect on direct sunlight in the morning, as well as reducing levels of daylight. Clearly there are no calculations submitted in terms of loss of daylight and sunlight. However, having stood in the rear garden of No 99 between midday and 13.00hrs and noted the orientation at the rear, in my experience, I cannot fail to see how the appeal works would not in some way affect the daylight and direct sunlight for the occupants of the adjacent properties.

69. In conclusion on this issue I consider that the living conditions of adjacent neighbours at both Nos 101 and 97 have been detrimentally affected by the extensive unauthorised works at No 99. I agree with the Council that these works are contrary to both local (LP and NLP) and national policies (NPPF), as well as to the aims and objectives of the AEYH/SPD. The appeal on ground (a) also fails, therefore, on this second issue.

Effect on Biodiversity of the site

70. On this issue I again agree with the Council that the development has failed to maximise the benefits of sustainable design and has failed to protect and enhance the biodiversity of the site. Apart from the fact that no attempt has been made to incorporate any method of sustainable design, the loss of so much garden space to the development has had a serious impact on the policy aim of maximising the opportunity for 'urban greening' required by emerging policy D1 of the LP.

71. Furthermore, policy SC4 of the NLP seeks to protect enhance and create habitats for biodiversity. In this case the effect on biodiversity has been significant due to the loss of so much garden area. Again, therefore, the appeal on ground (a) fails in relation to this third issue.

Overall conclusion on the ground (a) appeal

72. I have concluded above that the unauthorised works as carried out are harmful to the character and appearance of this part of the Borough; that they are of poor design; that they are harmful to the living conditions of neighbours and that they are negative in terms of preserving or enhancing the biodiversity of the site. I have found the works to be contrary to all of the relevant national and local planning policies and I do not consider that any of the other material considerations, either singly or jointly, indicate that a decision should be made other than in accordance with the development plan policies. It is evident that the Council would not have granted planning permission for what has been built on the site and there can be no justification, in my view, for granting approval at this appeal stage. The appeal fails on ground (a).

The appeal on ground (f)

73. Despite the complex planning history of the property, the breach of planning control must be dealt with on its face and in accordance with the allegation set out in the notice and Council's reasons for issuing it in the first instance. The notice was issued in order to remedy the breach of control and the reasons are fully set out in section 4 of the notice. I have already indicated above that I consider that the authority was entitled to issue the notice (when it did) and that it is in no way invalid.

74. To be successful on this ground the appellant must show that the steps required to comply with the requirements of the notice exceed what is necessary to remedy any breach of planning control and that lesser steps would overcome the objections. The appellant's case initially refers to the fact that permission should have been granted for Applications 3 and 6. The argument goes on to state that the reasons for the notice and the steps required to comply with it do not match the RfR of the previous

applications; that planning permissions should have been granted and that the Council should have waited for the outcome of the appeals

75. Reference is then made to payments made for applications and, again, the contention is made that the enforcement notice was premature and that it was issued less than 28 days of the refusal for Application 6. The planning history is set out again in full and there is no need to repeat it at this point. Unfortunately these initial arguments do not go to the heart of an appeal on this ground. The facts are that, in relation to the numerous applications, no planning permissions were granted for the works and no LDC were issued for any part of the works.

76. It is then stated that the steps are excessive because they do not match the RfR in Applications/Appeals 3 and 6. However, in Application 3 the essence of the RfR was on the basis that the application had failed to accurately describe the existing and proposed development. This was confirmed by the Inspector in the appeal decision (APP/G5750/D/18/3210587). In Application 6 the Council refused the LDC on the basis that the '*single operational development*' fell outside of the class provisions of the GPDO and did not constitute PD.

77. In my view these were valid Reasons for Refusal and consequently justified the enforcement action the Council was then entitled to take. In doing so the requirements were set out in order to remedy the breach of planning control. I do not consider that any of the appellant's rights have been denied in relation to the manner in which the LPA dealt with the applications and the notice. The LPA did of course make a mistake regarding the missing the plans for Application 5 but this was rectified by the acceptance and consideration of Application 6.

78. I have noted the arguments that enforcement action should be a '*last resort*' as opposed to a '*first line of action*' and I agree that this should be the way in which a LPA deals with any enforcement issue. However, in this case once the initial breach had taken place, the appellant clearly chose to deal with the situation and to remedy the breach (to regularise the works carried out) through the various '*disaggregated applications*'. Apart from the mistake with Application 5 and the last Application 7 the Council had considered and refused all of the other applications and the previous Inspector had refused to grant planning permission for the rear and side extension. The Council then considered it expedient to issue the enforcement notice and I have reached my conclusions that planning permission should not be granted for the unauthorised works in the ground (a) appeal above.

79. Initially the appellant has not set out why it is considered that the requirements would not remedy the breach. Clearly, if carried out they would remedy the breach and overcome the harm caused which is identified above. The breach is the construction of the various elements of the unauthorised works and the requirement would return the house to its state prior to any of these works commencing.

80. I accept that this is a most drastic state of affairs and I sympathise with the appellant's current predicament. But this sorry catalogue of events appears to have started and continued due to the lack of a planning permission in the first instance and the manner in which the regularisation of the breach was attempted. Notwithstanding these facts, I now turn to whether or not lesser steps could overcome the objections.

81. From all of the submissions; my inspection of the site and the surrounding area; the clarifications made during my site visit and of all physical matters relating to the submitted drawings for Applications 1 to 7, it is clear that the appellant considers that Application 7 (not accepted by the LPA under section 70 of the Act) would constitute lesser steps which would overcome the objections to the works.

82. I have, therefore, given consideration to these and have already referred above to the drawings submitted for that application. Unfortunately the drawings purporting to be drawings of what has actually been built (existing) are far from accurate. Ironically at the loft/dormer level these drawings indicate set-backs from the eaves which, in themselves, could meet the relevant conditions of the GPDO for an enlargement to the roof of a dwelling. However, as indicated above these drawings do not reflect exactly what has been built on site and I have dealt with these matters in Appeal A above.

83. Rather than being a genuine and appropriate scheme to illustrate that lesser steps could overcome the harm caused by the works as carried out, this submission in my view seems to have added to the catalogue of inaccuracies relating to most of the drawings submitted, from those submitted in Application 3 to the latest submission for Application 7. From the time that the BC application was made for 2 flats through to the latest Application 7 none of the submitted drawings appear to have accurately shown what was existing at the time of each application and exactly what was proposed to be constructed.

84. In conclusion, therefore, I do not consider that the appellant has shown that the steps required are excessive or that lesser steps would overcome the objections to the works as carried out and currently on site. The appeal must also fail on ground (f).

Other Matters

85. However, notwithstanding my findings on the ground (f) appeal and the fact that I do not consider Application 7 to constitute sufficient '*lesser steps*', it may well be that amendments to what has already been built could overcome the Council's objections to the unauthorised works. The Council acknowledges that '*a well-designed extension could provide an excellent addition of space to this property*' but that this particular development '*Fails to deliver this.*' I agree with both of these points.

86. I am not empowered to consider any other scheme with regard to this appeal but the appellant is not precluded from submitting another '*well-designed scheme*' which could incorporate some of the works as carried out. However, this would have to be significantly different to the scheme which has been built and which is subject to the enforcement notice. Otherwise, like Application 7, it could be justifiably rejected by the Council on the basis of section 70 of the Act.

87. There is no appeal before me on ground (g) and so I cannot consider extending the compliance period. However, in appropriate circumstances a LPA does have the discretion to extend a compliance period. Taking into account the full history of these applications and appeals, it seems to me that it would be a reasonable course of action for the appellant and the Council to liaise if it is considered that an alternative scheme/application is a way forward. However, this is a matter for the parties to decide and at this stage the compliance period must remain at 3 months subject only to the Council's discretion to extend it if considered appropriate.

88. In reaching my conclusions in both appeals I have taken into account all of the submissions made by the appellant, the Council and the interested party (occupant at No 97). These include the considerable and complex planning history; the initial grounds of appeal; the detailed statements; all appendices including photographic evidence and all final submissions.

89. However, none of these matters carries sufficient weight to alter my conclusions that the Loft Conversion works do not constitute permitted development and that a LDC should not be issued for Appeal A. Neither are there any matters which alter the conclusions I have reached on each ground of appeal in Appeal B. Finally, there are no

other matters of such significance so as to change my decisions that both appeals should be dismissed.

90. In reaching my decision I have taken into account the Human Rights of the appellant and the occupants of No 99. From all of my findings I consider that the refusal of a LDC and the need to comply with the requirements of the notice are proportional and necessary in order to comply with GPDO requirements and to safeguard the visual and residential amenities of this part of the Borough. I do not consider that my decisions have interfered with any of the appellant's, or others', rights under ECHR legislation.

Formal Decisions

91. Appeal A is dismissed and a Lawful Development Certificate for the works described as '*C3 residential property with on-going works for loft conversion less than 40 cubic meters with rear dormer*' at 99 Stamford Road, East Ham, London E6 1LP is not issued.

92. Appeal B 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, in relation to the property at 99 Stamford Road, East Ham, London E6 1LP.

Anthony J Wharton

Inspector