



Appeal Decision

Site visit made on 3 September 2019

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2019

Appeal Ref: APP/G5750/C/18/3210001

Land at and rear of 125 Green Street, Forest Gate, London E7 8JF

- 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 Shahid Hanif against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice was issued on 27 July 2018.
 - The breach of planning control as alleged in the notice is: Without planning permission the erection of an extension.
 - The requirements of the notice are: 1. Demolish the extension (as shown edged in blue on the attached plan). 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 grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended. Since the appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Summary of Decision

1. The appeal is dismissed and the enforcement notice is upheld with corrections.

Preliminary Matters

2. Since the issue of the enforcement notice the Council has adopted the London Borough of Newham Local Plan, 2018 (the LP), the emerging policies of which were cited in the reasons for issuing the notice. I therefore give these policies full weight as the relevant development plan for the area and have consequently not considered any policies that have since been replaced or updated by the LP.

The Enforcement Notice

3. The alleged breach of planning control does not identify the location of the extension. However, requirement 5. 1. identifies the extension as being shown edged in blue on the attached plan. It is therefore clear from the enforcement notice which extension is enforced against. Furthermore, requirement 5. 2. requires the removal of all materials and debris from the site, however, in the interests of consistency this should be from the land affected. I do not consider that any injustice arises from these corrections, which I shall set-out in my formal decision.

The ground (a) appeal

4. The main issues are the effect of the extension on:
- i. the character and appearance of the area; and,
 - ii. the living conditions of neighbouring occupiers, having particular regard to No 1 Halley Road.

Reasons

5. The site consists of commercial premises within a parade of shops. Residential accommodation is above. There is also access to the premises via Halley Road, where the extension has been constructed to the rear. The extension was empty at the time of my site visit, but is intended for storage, and adjoins an existing small office space with the shop to the front.

Character and appearance

6. The extension is thus to the rear of the parade of shops and whilst not prominent it can be seen at the end of the access way from views in Halley Road, which itself consists of attractive traditional residential properties. It is therefore a feature within this street-scene.
7. The extension is the same depth as the extended building at No 123 Green Street, as well as the same height. It is therefore not disproportionate in terms of its size. The flat roof is felted and so the extension is also similar in these regards.
8. However, the extension is somewhat makeshift in its appearance, being largely constructed from corrugated tin and timber, when viewed from the access way and Halley Road. This has resulted in a particularly poor-quality design and use of materials which are not reflective of those in the surrounding area, where buildings are predominantly faced in either brick or render. It therefore does not have regard to the form and structure of the area and does not incorporate the highest quality materials and design appropriate to its context, despite being sited to the rear of the parade of shops.
9. I conclude that the extension is harmful to the character and appearance of the area and so fails to accord with Policies SP1 and SP3 of the LP as well as Policies 7.1, 7.4 and 7.6 of the London Plan¹. These policies, amongst other things, require development to be high quality, result in a good quality environment, have regard to the form and structure of an area, and, incorporate the highest quality materials and design appropriate to its context. For the same reasons the extension is contrary to the good design objectives of the National Planning Policy Framework. I do not however identify a conflict with Policies S6 and SP2 of the LP as these are concerned with overarching strategic criteria and healthy neighbourhoods.

Living conditions

10. The rear garden of No 1 Halley Road runs alongside the extension. As previously noted, the extension is the same height and depth as that at No 123. I however have little evidence to persuade me that the extension has

¹ The London Plan, The Spatial Development Strategy for London Consolidated with Alterations since 2011, March 2016

resulted in adverse overshadowing or a sense of overbearing of this garden such that it is detrimental to the occupiers' enjoyment of this space, or that it is otherwise unneighbourly.

11. I conclude that the development is not harmful to the living conditions of neighbouring occupiers, having particular regard No 1 Halley Road and so accords with Policy SP8 of the LP as well as Policy D1 of The Draft London Plan. These policies, amongst other things, require development to achieve good neighbourliness and deliver appropriate outlook and amenity.

Other Matters

12. I appreciate the occupiers of No 123 are concerned that the extension blocks an access point. However, as noted by the Council, this is likely to be a civil matter between the respective parties and is not a material planning consideration that has a bearing on my determination. Whilst potential breaches of planning control at No 123 have been highlighted by the appellant, these are for the Council to investigate, but similarly do not have a bearing on the determination of this appeal.
13. In its Statement of Case the Council has also raised that the extension constitutes an expansion of commercial floor-space outside of an identified centre. However, I am not convinced on the evidence before me that the extension undermines the Council's aims to consolidate commercial development such that there would be any further conflict with the development plan.
14. I appreciate the appellant has sought to engage with the Council and was amenable to a temporary planning permission to enable alternative storage arrangements to be made, albeit I have little evidence that such an application was submitted. The extension was however empty at the time of my site visit and there is no ground (g) appeal or compelling evidence concerning the business before me to justify extending the period for compliance beyond the specified three months.

Conclusion

15. For these reasons and having regard to all other relevant matters raised, I conclude that the appeal on ground (a) fails.

The ground (f) appeal

16. The purpose of the enforcement notice is to remedy the breach of planning control. Therefore, for an appeal on ground (f) to succeed it would be necessary for the appellant to explain why the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control and propose lesser alternatives.
17. However, whilst the appellant suggests the extension could be altered in terms of its size or improved in terms of its design and quality of materials, no specific details or proposals are before me to consider. Such changes would also likely amount to a different development to that enforced against and may necessitate substantial rebuilding works. Furthermore, alterations to the extension would not have the effect of remedying the breach of planning control that has been enforced against; namely the erection of an extension.

18. Accordingly, the appeal on ground (f) must fail.

Conclusion

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

Formal Decision

20. It is directed that the enforcement notice be corrected by:

- deletion of the words '*Without planning permission the erection of an extension.*' and their replacement with the words '*Without planning permission the erection of an extension (as shown edged in blue on the attached plan).*'
- deletion of the words '*On completion of step 1 above, removal all materials and debris from the site.*' and their replacement with the words '*On completion of step 1 above, removal all materials and debris from the land affected.*'

21. Subject to these corrections the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Paul T Hocking

INSPECTOR