



Appeal Decisions

Site visit made on 29 August 2019

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 23 September 2019

Appeal Refs: APP/U5930/C/18/3209270 (Appeal A) & 3209271 (Appeal B)

52 Alma Avenue, London, United Kingdom E4 9JT

- 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 appeals are made by Mr Mohammad Butt (Appeal A) & Mrs Yasmin Butt (Appeal B) against an enforcement notice issued by the Council of the London Borough of Waltham Forest.
 - The enforcement notice was issued on 19 July 2018.
 - The breach of planning control alleged in the notice is failure to comply with condition No 3 of a planning permission Ref 2012/0153 granted on 16 March 2012.
 - The development to which the permission relates is part single, part two storey side and rear extension. The condition in question is No 3 which states that: The development shall be carried out in accordance with plan numbers 1533/PL01A received on 16th January 2012 along with plan numbers 1533/PL02B and 1533/PL03B received on 14th March.
 - The notice alleges that: In contravention of Condition 3 of planning permission (ref: 2012/0153) granted on 16th March 2012, the failure to carry out the development in accordance with plan numbers 1533/PL01A received on 16th January 2012, along with plan numbers 1533/PL02B and 1533/PL03B received on 14th March 2012, namely: The construction of a gabled pitched roof sloping front and back to the eaves with a flat roof at the apex to the two storey side extension (as shown in Photograph 'A' attached to this Notice), in lieu of the approved gabled dual-pitched roof sloping front and back with a hipped roof set within the rear roof slope (as shown in drawing numbered 1533/PL02B attached to this Notice); and the construction of a first floor rear extension with flat roof (as identified by the yellow box in photograph 'B' attached to this Notice).
 - The requirements of the notice are: 1) Remove the first floor rear extension (as identified in the yellow box in Photograph 'B' attached to this Notice) and bring the first floor rear elevation of the Land in accordance with the drawing numbered 1533/PL02B received on 14 March 2012 (attached to this Notice) in association with condition 3 of planning application referenced 2012/0153. 2) Alter the roof of the two storey side extension to bring it in accordance with drawing numbered 1533/PL02B received on 14 March 2012 (attached to this Notice) in association with condition 3 of planning application referenced 2012/0153. 3) Remove all resulting materials, rubble and general detritus from the Property following compliance with steps 1) and 2) above.
 - The period for compliance with the requirements is 8 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have 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 falls to be considered.
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Decision

1. The appeals are 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 appeal on ground (a) and the deemed planning application

Main Issue

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

Reasons

3. The appeal site is a two-storey end of terrace dwelling located in a predominantly residential area. Planning permission (Ref 2012/0153) was granted on 16 March 2012 for a part single, part two-storey side and rear extension. The plans submitted with the planning application included drawing No. 1533/PL02B, which shows a two-storey side elevation with a pitched roof that is set down from the ridge of the main roof. At a lower height to the rear of this extension, a pitched roof is shown extending back and terminating with a small hip. The 2012 permission was granted subject to condition no. 3, which required that the development should be constructed in accordance with the approved plans, including No. 1533/PL02B.
4. The side extension has been constructed with two pitched slopes to front and back, but incorporates a flat-roofed section on top. The lower hipped roof section to the rear has been omitted. Furthermore, a flat-roofed element now projects from the side of the two-storey extension across the back elevation of the house, which is not shown on plan No. 1533/PL02B. Thus, I am satisfied that the development was not built in accordance with the terms of the 2012 permission.
5. The Council's document entitled 'Residential Extensions and Alterations - Supplementary Planning Document' (SPD) sets out design principles for residential developments. It states that in many residential streets, the character is achieved through uniformity, with roof form being an important element. Similarly, Policy DM4 of the London Borough of Waltham Forest Development Management Policies Local Plan (LP) requires that residential extensions should relate to the original building, and respect the street scene and the character of the area.
6. The side extension sits below the main roof, and to that extent achieves a degree of subservience. However, the inclusion of the flat-roofed section results in a design that departs from the prevailing roof forms that I saw in the vicinity of the appeal site. There is little evidence to suggest that the roof profile of the side extension, as built, is characteristic of the surrounding area.
7. Although No 52 has a flat-roofed dormer at the back, as do a number of nearby dwellings, I saw that flat-roofed extensions at first floor level do not appear to be a common feature of the area. In this case, the first-floor extension cuts across the rear elevation in a visually awkward manner, and does not keep in with the general appearance of the rear elevation of No 52. Taken together, the side and rear elevations add considerable bulk at high level, which is at odds with the modest scale and design of the original building.

8. I therefore conclude that the development is incongruous in its context, and unacceptably harms the character and appearance of the appeal building and the surrounding area. As a result, it conflicts with LP Policy DM4, LP Policy DM29, insofar as it requires a high standard of urban and architectural design for all new development, and the advice given in the SPD.
9. The fact that the works have already been carried out and are in compliance with building regulations is not sufficient justification to grant planning permission for a development that I have found to be contrary to local plan policy. Even if it is accepted that the majority of the works have been carried out in accordance with the approved plans, this does not lead me to a different conclusion on the main issue of the appeal.

Other Matters

10. I have taken into account the fact that no objections have been raised by neighbouring residents at 50 Alma Avenue, or on behalf of the Peter Mays Sports Ground which lies to the rear of No 52. However, this does not alter my view that the development harms the character and appearance of the area. I note that the Council have not voiced any concern with respect to the living conditions of neighbours, for example, the blocking of light or outlook.
11. My attention has been drawn to a new house on Shernhall Street, whose roof design is, in the appellants' opinion, very similar to the unauthorised roof design at No 52. However, in the absence of any detail about that particular development, or the circumstances in which it was found to be acceptable, I am unable to draw any meaningful comparison between the two. Moreover, each case is to be considered on its individual merits.

Conclusion

12. For the reasons above, I conclude that the appeals on ground (a) should fail and that the deemed planning application should be refused.

Elaine Gray

INSPECTOR