
Appeal Decision

Site visit made on 22 October 2019

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2019

Appeal Ref: APP/U5360/C/19/3225347

40 Mildenhall Road, Hackney, London E5 0RU

- 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 Mohammed Sidat against an enforcement notice issued by the Council of the London Borough of Hackney.
 - The enforcement notice was issued on 18 February 2019.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a rear roof extension.
 - The requirements of the notice are:
 - (i) Remove the rear roof extension
 - (ii) Make good all damage to the Property resulting from the removal of the unauthorised works and restore the roof of the Property to its condition before the unauthorised extension was constructed;
 - (iii) Remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the property and its premises.
 - The period for compliance with the requirements is three (3) months after this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fee has been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act also falls to be considered.
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Decision

1. The appeal is dismissed, 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.

Preliminary Matters

2. The Council have drawn my attention to a "point" having been added to the frontage of the roof. However, as that is located at the front of the building, it does not form part of the rear roof extension referred to in the breach of planning control. Consequently, I will not consider it further as part of this appeal.
3. Nevertheless, raising of the ridge of the roof does form part of the rear roof extension as the flat roof is at ridge level, as shown on the aerial photograph supplied by the Council. I will consider that in my reasoning.

The Appeal on Ground (a) and the Deemed Planning Application

Main issue

4. The effect of the rear roof extension on the character and appearance of the existing building and surrounding area.

Reasons

5. Mildenhall Road comprises terraced houses of similar character and appearance. Those on the side of no. 40 have outrigger projections and long gardens to the rear, backing onto Millfields Road. These outrigger projections have a pitched roof with a ridge that is lower than that of the main roof and form the boundary to the neighbouring property. The adjacent property sharing the outrigger with no. 40 has a roof extension that extends partially over the outrigger, although there is no roof extension on the property on the other side. The roofs of the houses are visible from Millfields Road over the rear gardens, many of which include substantial outbuildings.
6. A number of other dwellings within the terrace have roof extensions, some of which extend over their outriggers. However, most are smaller than that at no. 40. I understand that two are also subject of enforcement notices. In addition, the ridge at no. 40 has been slightly raised by the development. As a result of these factors, the rear roof extension subject of the enforcement notice appears bulkier than most other roof extensions on the terrace. Consequently, it dominates the rear roof of the property such that it is a prominent and incongruous feature on the roof of the building and in the street scene of Millfields Road.
7. My attention has been drawn to a Lawful Development Certificate relating to a rear roof extension¹. However, that was smaller than the extension that has subsequently been constructed, more in keeping with other roof extensions in the terrace. As a result, I have given it limited weight in coming to my decision.
8. For these reasons, I conclude that the rear roof extension at 40 Mildenhall Road harms the character and appearance of the building and surrounding area. As such, it is contrary to Policy 24 of the Hackney Core Strategy, Policy DM1 of the Hackney Development Management Local Plan and Policies 7.4 and 7.6 of the London Plan that seek high quality design, including that development should enrich and enhance the built environment and respect the visual integrity, scale and massing of buildings and the street scene. In addition, it does not reflect the guidance within the Supplementary Planning Document titled Residential Extensions and Alterations, in particular that roof extensions should reflect the architectural character of the building and take account of the visual impact of the extension within the area.

Conclusion

9. For the reasons set out above, I conclude that on balance the proposed development would not accord with the development plan. The appeal on ground (a) therefore fails.

¹ Council reference 2014/3824

The Appeal on Ground (g)

10. An appeal on this ground is that the period specified in the notice for compliance falls short of what should reasonably be allowed. The notice suggests that three months is sufficient to allow the appellant to carry out the works required in the notice.
11. I note that construction of the dormer may have taken six months to complete, although limited evidence has been supplied to demonstrate that. The appellant suggests the works will require provision of scaffolding to enable working at height. It is unclear why compliance with the notice would take more than three months to organise and carry out. In any event, the appeal on ground (a) has been dismissed and the appellant is legally obliged to comply with the requirements of the notice.
12. For these reasons, I conclude that the appeal under ground (g) should fail.

Conclusion

13. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

AJ Steen

INSPECTOR