



Appeal Decision

Site visit made on 11 November 2019

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2019

Appeal Ref: APP/T5150/C/19/3224033

Flats 1-5, 19 Burrows Road, London NW10 5SL

- 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 Oleg Kogan against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice, numbered E/18/071, was issued on 28 January 2019.
 - The breach of planning control as alleged in the notice is the removal of the existing single storey extension roof and the installation of a new higher roof, including an increase in height of the parapet wall adjoining no.17 Burrows Road.
 - The requirements of the notice are;
 1. Demolish the roof located at the single storey rear extension and demolish the parapet wall adjoining no.17 Burrows Road.
 2. Remove all items and debris arising from these demolition works and remove all materials associated with the unauthorised development from the premises.
 3. Restore the premises back to its original condition before the unauthorised development took place.
 - The period for compliance with the requirements is 3 months.
 - 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.
-

Decision

1. The appeals are 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.

The appeal on ground (a) the deemed application

Background and main issue

2. The enforcement notice relates to alterations to the roof of the single storey extension which included an increase of the height of the roof itself and the adjacent parapet wall to No 17 Burrows Road. It is agreed by the parties that the works took place between July and November 2018.
3. I have had regard to the reasons why the Council issued the notice and consider that the main issues under this ground are:
 - The effect of the development on the character and appearance of the area; and
 - The effect of the development on the living conditions of existing residents, with reference to outlook and light to No 17 Burrows Road.

Reasons

Character and appearance

4. The site comprises a former two storey dwelling that has been subdivided into five flats. The area is predominantly residential with terraces of two storey houses set within small front, and modest rear gardens. The rear of the properties in the area have a variety of extensions and outbuildings in their rear gardens. No 19 is sited within one of these terraces. The rear extension, which is divided internally, is being used primarily as a bedroom for one of the flats with a further small room under the original sloping felted roof section to the west.
5. The development has resulted in the removal of the glass roof and its replacement with a felt roof at an altered pitch and increased height. The felted sloping roof element remains similar in profile to the original. Glass windows have been inserted above the original rear doors and the brick parapet wall adjacent to No 17 has also been raised in height.
6. The photographs provided by the appellant shows that the original extension had the appearance of a traditional domestic conservatory. The parties disagree on the overall height increase. Nonetheless, it was clear from my site visit and the evidence before me, that the height has increased significantly. This scale and height increase is emphasised by the additional windows that have been inserted above the glazed rear doors and the solid timber and flat felt roof above. Moreover, the timber cladding and design of the roof is in stark contrast to the more traditional design and materials found on the main building. Consequently, I find that the extension appears large and very bulky, when compared to the original extension and more traditional sloping roof single storey extensions that I saw nearby.
7. For the above reasons I conclude that the proposed development results in significant harm to the character and appearance of the area. Consequently, it conflicts with saved Policy DMP1 of the London Borough of Brent Development Management Policies document (2016) (DMP), which in summary requires that development is of a scale, type, density materials detailing and design that provides high levels of internal and external amenity and complements the locality.

Living conditions

8. The increase in the height of the roof as a result of the altered pitch, has resulted in an increase to the side wall, immediately adjacent to the rear elevation of No 17. I saw at my site visit, that there is a small single storey extension or outbuilding to the rear of No 17 sited adjacent to the wall. There is however, a small area of amenity space close to the rear elevation with the remainder of the garden beyond. There is a window in the ground floor rear elevation that is understood to be used as a kitchen. It was clear from my site visit that given the stepped design of the properties, that this window is likely to provide the main source of light to this room.
9. Whilst I acknowledge that the boundary wall existed prior to the alterations being carried out, there is a very close relationship between the wall, the rear kitchen window and the compact amenity area to the rear of No 17. Consequently, the increase in the height of the wall, has resulted in a loss of

outlook for the amenity area and an unacceptable loss of light and overshadowing for the residents at No 17, and in particular to the ground floor kitchen window.

10. For the reasons above, I conclude that the development that has been carried out has a significant and unacceptable effect on the living conditions of the residents of No 17 Burrows Road. The development is therefore contrary to Policy DM1 of the DMP, which requires development to provide high levels of internal and external amenity.

Other matters

11. I have had regard to the benefits that the alterations may have to privacy for the bedroom, noise and light spillage and thermal insulation. However, it appears to me, that these benefits could be achieved in other ways. Accordingly, in my judgement they do not outweigh the significant harm I have identified to the character and appearance of the area and the living conditions for the residents at No 17 Burrows Road.
12. My attention has been drawn to an appeal decision dated 8 July 2011. This appeal relates to a different property. I have no information about the circumstances of that site and its relevance to the matters under consideration in this appeal. Therefore, I have determined the deemed application on its own planning merits.
13. Having regard to my conclusion on the main issues and all other matters raised, I am satisfied that the ground (a) should fail and the deemed application for planning permission should be dismissed.

Ground (g)

14. It is the appellant's case that the materials used in the original roof have all been disposed of. This means that they will need to find similar replacement materials to restore the premises back to its original condition. However, I have no evidence before me to explain why these materials would be difficult to source and why a longer period is required.
15. I have balanced competing interests -the private interest of the appellant in altering his property and the public interest in not allowing the harm that I have identified, to continue for longer than necessary. The works required by the notice are not specialist in nature and therefore I consider that 3 months strikes an appropriate balance.
16. Overall, I conclude that the time given to comply with the requirements of the notice are reasonable and the appeal under ground (g) is therefore dismissed.

Conclusion

17. For the reasons given above, I conclude that the appeals 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.

Hilary Orr

INSPECTOR