
Appeal Decision

Site visit made on 11 November 2019

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2019

Appeal Ref: APP/T5150/C/19/3223318

1 Craven Park Road, London NW10 8SE

- 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 The Unstoppable International against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice, numbered E/17/0928, was issued on 15 January 2019.
 - The breach of planning control as alleged in the notice is the erection of a single storey extension to the rear of the premises.
 - The requirements of the notice are:
 - Step 1 Demolish the single storey rear extension
 - Step 2 Remove all items and debris arising from this demolition work and remove all the materials associated with the unauthorised development from the premises.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (c) of the Town and Country Planning Act 1990 as amended.
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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.

Procedural matters

2. The allegation in the notice is the erection of a single storey extension to the rear of the building. At the time of my site visit the roof of the building had been divided, giving the appearance of two buildings. The evidence I have before me all refers to a single extension that had been constructed at the time that the notice was issued. I have no additional evidence to suggest that this was not the case and I have therefore considered the appeal on this basis.
3. The appellant's only grounds for the appeal are set out in section E of the Enforcement Appeal Form. It is clear that the appeal has been made on ground (a) and the deemed application fee has been paid. However, the grounds also relate to an appeal made under ground (c) that those matters, (i.e. the matters stated in the notice which give rise to the alleged breach of planning control), if they occurred, did not constitute a breach of planning control. It is therefore my intention to consider the evidence before me in the context of the appropriate grounds.

Appeal on Ground (c)

4. The appeal is proceeding on ground (c), that the matter alleged in the notice does not constitute a breach of planning control. This is a legal ground where the onus is on the appellant to make out the case that there has not been a breach of planning control. Nevertheless, case law has established that the evidence of the appellant should not be rejected simply because it's not corroborated. If there is no evidence to contradict or make the appellant's version of events, less than probable and their evidence is sufficiently precise and unambiguous, there is no good reason to dismiss an appeal on any legal ground.
5. The appellant's case is that the structure is a temporary garden structure that does not require planning permission.
6. The appeal site comprises a Wine Bar, with residential accommodation over two storeys above. The subject building is largely open sided with vertical timber posts providing a frame to support a substantial timber and felt roof. The building extends across the width of the site and extends to the rear boundary. A number of black polythene sheets have been hung onto the frame to provide some relief from the elements. The building has been provided with an electrical supply and there were a number of tables and chairs within the building at the time of my site visit indicating that it was being used.
7. The building is substantial both in scale and construction. There is a concrete floor with the rear floor being slightly higher than the floor nearest the building. The timber frame is attached to the concrete base, main building and a low wall that surrounds part of the rear of the building. Having regard to its scale, physical attachment and substantial construction, I consider that the extension is operational development for which planning permission is required.
8. Overall, the extension has the appearance and physical characteristics of a permanent structure. Moreover, it has been in the same position for over 18 months and thus has sufficient permanence for its erection to amount to operational development in the context of the other considerations identified above. The appeal on ground (c) therefore fails.

Appeal on ground (a) – the deemed application

Main issue

9. I consider that the main issue is the effect of the extension on the character and appearance of the area and the host building.

Reasons

10. The site is located within a busy and varied main shopping area. The site lies adjacent to the Harlesden Conservation Area and the properties are three storey terraced buildings with commercial units at ground floor facing onto the main road. The properties are of generally consistent design with brick frontages and consistent architectural detailing to the eaves and windows. Despite the angled frontage, the appeal site sits comfortably within this pattern and design of development. In common with other properties in the area there is a modest rear garden area where the extension is sited.

11. As outlined above the extension comprises a timber framework with a substantial timber and felt mono pitched roof. The extension spans the length and width of the plot. The scale of the extension is exacerbated by its poor unplanned design and the polythene sheeting. I recognise that there are no views to the rear from the main road. Nonetheless, the site is overlooked by a large number of adjacent properties with uninterrupted views. Accordingly, the extremely large expanse of flat roof would dominate the view.
12. Overall, I find that the development as a result of its overbearing, prominent scale and design is out of proportion to the host building and causes significant harm to the character and appearance of the area. The appeal on ground (a) therefore fails and the extension is contrary to policy DM1 of the London Borough of Brent development management Policies document (2016). In summary this policy seeks to ensure that development is of a siting, layout, scale, materials, detailing and design that complements the locality.

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

Hilary Orr

INSPECTOR