
Appeal Decision

Site visit made on 14 November 2019

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 31 December 2019

Appeal Ref: APP/U5360/C/19/3225346

Land at 38 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 David Kellaway 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 to:
 - (i) Remove the rear roof extension;
 - (ii) Make good all damage to the Property resulting from the removal of the unauthorised works and Remove all materials, debris, waste and equipment resulting from compliance with the other requirements from the property and its premises.
 - The period for compliance with the requirements is three (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. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
-

Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a rear roof extension on land at 38 Mildenhall Road, Hackney, London E5 0RU as shown on the plan attached to the notice.

The appeal on ground (a) and the deemed planning application

Main issue

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

Reasons

3. The appeal property is located in a largely residential area broadly comprised of streets of terraced houses of similar character and appearance. Substantial and similar outrigger projections to the rear of the houses create a strong pattern of development. The outriggers have pitched roofs with ridges lower than that of the main building and which are shared with the outrigger of the neighbouring property. While not present on most dwellings, a significant number of rear roof extensions have been implemented locally and several roof

extensions nearby to the appeal development also include elements which extend onto the outrigger. The roof extensions are quite visible from streets to the rear of properties and from their reasonably long gardens. As such, due to visibility and number, the presence of the roof extensions makes a significant contribution to the existing character and appearance of the area.

4. The appeal development comprises a roof extension that extends partially over the outrigger, and there are roof extensions at nos 36 and nos 40 either side and at nos 34 and 44 that also partially extend on to their outriggers. Within this context the appeal development is not incongruous with its surroundings.
5. I note that enforcement notices have been issued with respect to the removal of the extensions at nos 34 and 40, and that the notices have been upheld on appeal (the dismissed appeals)¹. However, even were those extensions removed, the presence of nearby retained extensions would in my judgement provide an appropriate context in which the appeal development would be visually compatible. In particular, the appeal extension is broadly similar in scale and design to that of its neighbour at no 36 and the two developments produce elements of pleasing approximate symmetry in that regard. The Council's Supplementary Planning Document "Residential Extensions and Alterations" (2009) (SPD) states roof extensions should be designed to complement the individual house and the existing streetscape. Accordingly, in taking the relationship with the extension at no 36 into account, the appeal development is not in conflict with the SPD in this regard.
6. Further, in my judgement the extension maintains the subservient relationship of the outrigger to the main building as the projection over the outrigger is relatively modest and does not cover most of its slope. It is also set in from the eaves to further reduce visual impact. While I accept that the dormer on the main roof slope covers more than half the total width, the dimensions broadly mirror that of the dormer next to it at no 36 and a narrower width would harm this visual relationship. It is also set back from the eaves to reduce its dominance, and does not extend above the ridgeline.
7. The SPD states that, where a number of larger rear box dormers already exist in the immediate vicinity, larger dormers may be acceptable. My site visit confirmed the existence of a significant number of larger rear box dormers nearby. Further, I give limited weight to the Council's argument that a number of these may have been implemented under permitted development rights as, notwithstanding that fact, they contribute significantly to the character and appearance of the area.
8. For all of the above reasons, the appeal development does not cause harm to the character and appearance of the host building or area. As such it is not in conflict with Policy 24 of the London Borough of Hackney Core Strategy (2010)², Policy DM1 of the London Borough of Hackney Local Plan (2015)³, or Policies 7.4 and 7.6 of the London Plan (2016)⁴ which together, and supported by the SPD, seek to protect the character and appearance of buildings and places.

¹ APP/U5360/C/19/3225347; APP/U5360/C/18/3219437

² Core Strategy, *Hackney's strategic planning policies for 2010-2025*, Adopted November 2010

³ Local Plan, *Development Management Local Plan*, Adopted July 2015

⁴ The London Plan, *The Spatial Development Strategy for London Consolidated with Alterations Since 2011*, March 2016

Conclusion

9. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (g) does not therefore need to be considered.

Andrew Walker

INSPECTOR