
Appeal Decision

Site visit made on 27 November 2019

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 20 January 2020

Appeal Ref: APP/W5708/C/19/3226352

68 Stoneleigh Road, Clayhall, Ilford, Essex IG5 0JE

- 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 Rajwinder Singh Pyas against an enforcement notice issued by London Borough of Redbridge.
 - The enforcement notice was issued on 28 February 2019.
 - The breach of planning control as alleged in the notice is the unauthorised erection of a two storey side-extension.
 - The requirements of the notice are
 - (i) Build the two-storey extension in accordance with planning permission reference 3022/17;
 - OR
 - (ii) Remove the unauthorised two storey side extension
 - AND;
 - (iii) Remove from the land all building materials and rubble arising from compliance with the steps (i) or (ii) above.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in sections 174(2) (a) (c) and (f) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The appeal is 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 Town and Country Planning Act 1990 as amended.

The appeal under ground (c)

2. In this ground of appeal the onus is on the appellant to make out the case that there has not been a breach of planning control. Planning permission was granted by the Council on the 21 August 2017 reference 3022/17 for a single storey and part two storey side extension. The appellant's argument is that the appeal extension has been built in accordance with that planning permission apart from two differences which were errors by the appellant's builder. The differences are that the roof of the extension is not stepped down from the height of the main roof by 186mm and the front of the extension does not have a 0.5 metre set back at first floor level.
3. In my view, these are material differences from the approved plans meaning that the extension has not been built in accordance with the planning permission granted on the 21 August 2017. The extension as a whole is therefore development which does not have planning permission. As such,

there has been a breach of planning control and so the appeal under ground (c) must fail.

The appeal under ground (a)

4. The main issue is the effect of the development on the character and appearance of the area.
5. The appeal dwelling is a semi-detached dwelling on Stoneleigh Road close to the junction with Chadacre Road. The appeal dwelling and nearby dwellings are of a similar design and have a distinctive style with a section of roof that slopes down the front of the dwelling to be level with the bottom of the first floor window. To the side of this element, there is then a set back section followed by either a gap or a single storey extension. It is within this gap that the appeal extension sits. No 66 which is next to the appeal dwelling has a single storey extension with a pitched roof which is almost on the boundary of the two dwellings. No 64 which is the adjoining semi to No 66 has no built development within the gap.
6. I also observed that the prevailing pattern in the surrounding area of the appeal dwelling is of ridgelines of two storey extensions to be set down lower than the original dwelling roof and for first floor extensions to be set back from the front of the original dwelling.
7. The planning permission provided for a single storey and part two storey side extension that included a 0.5 metre set back at the front of the dwelling and for the roof to the extension to be lower down than the original roof. The combination of the changes to the approved design results in an extension which is not subservient to the original dwelling. The overall effect is that the extension is out of scale to both the original dwelling and surrounding dwellings. The mass and proximity of the front element in particular appears out of scale in relation to No 66 which has the modest side extension which matches the rest of the dwelling.
8. The appellant has referred to a nearby dwelling at 81 Stradbroke Road where there is a side extension that is flush with the front of the house. However, the Council indicates that the extension was not granted planning consent and is now immune from enforcement action. From my site visit observations, No 81 is of a different style to the appeal dwelling and is for example set back from No 79 next door. Both dwellings either side of No 81 do have subservient extensions with the more prevalent set back that are commonly found in the surrounding area. No 81 is therefore not comparable with the appeal extension.
9. I therefore do find that the extension is harmful to the character and appearance of the area and so fails to accord with Policies LP 26 the Redbridge Local Plan 2015-2030 Adopted March 2018 (the Local Plan) which requires development to be of a design that is appropriate to the locality and Policy LP30 of the Local Plan which requires extensions to complement the character of the building and not dominate the existing building.
10. I note that the extension has received the appropriate Building Control certificates but that does not remove the requirement to carry the development out in accordance with the planning permission. Whilst the appellant has referred to concerns of neighbours influencing the decision process, the Council

has clearly identified the policy concerns which arise from the extension as built.

11. I note the stress and anxiety caused by issues between the appellant and his builder but nevertheless I am required to assess the extension as it has been constructed.

The appeal under ground (f)

12. This ground relates to whether the steps required by the notice exceed what is necessary to remedy the breach of planning control. The appellant's case under this ground of appeal is that a retrospective planning permission could be granted. However, I have already considered that retrospective application to keep the development as built under the ground (a) appeal.
13. An enforcement notice shall specify the steps required by the local planning authority in order to achieve wholly or partly the purposes set out in Section 173(4) of the 1990 Act. The notice alleges the unauthorised erection of a two storey side extension. The steps required to be taken are to either demolish the two storey extension or to build it in accordance with the previously granted planning permission. The purpose of the notice is therefore clearly to remedy the breach of planning control by either complying with the planning permission or restoring the land back to its condition before the breach took place.
14. The steps required by the notice do not exceed what is necessary to remedy the breach of planning control. The ground (f) appeal must therefore fail.

Conclusion

15. 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.

E. Griffin

INSPECTOR