



Appeal Decision

Site visit made on 16 January 2020

by Sarah Dyer BA BTP MRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 29th February 2020

Appeal Ref: APP/W5780/C/19/3232015

Land at 225-227 Ley Street, Ilford IG1 4BL

- 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 Yusuf Polat against an enforcement notice issued by the Council of the London Borough of Redbridge.
 - The enforcement notice, numbered E0554/18, was issued on 17 May 2019.
 - The breach of planning control as alleged in the notice is the erection of a single storey front extension with an overall height of 3m, width of 12.4m and a maximum depth of 3.3m, incorporating roller shutters and a 1m high boundary brick wall which encloses the front and both flanks of the shop front outlined in blue.
 - The requirements of the notice are:
 - (i) Remove the unauthorised single storey front extension incorporating roller shutters outlined in blue on the attached plan; and
 - (ii) Remove from the land all building materials and rubble arising from compliance with the step (i) above.
 - The period for compliance with the requirements is within three months of the notice taking effect.
 - The appeal is proceeding on the grounds set out in section 174(2)[a], [e], [f] and [g] of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground [a] and the prescribed fees have been paid within the specified period, an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decisions

1. The appeals are dismissed, and the enforcement notice is upheld.
2. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matter

3. The appellant refers to an appeal which was made against a decision of the Council to refuse planning permission for a single-storey rear extension with roller shutter access and relocation of staircase to the above flats at the site. This appeal (Ref: APP/W5780/W/19/3228108) has been allowed. That development related to a different part of the building therefore it is not directly relevant to the current appeal. However, the appellant has described the proposal as 'retention of single storey rear extension and relocation of staircase' on the title page of his statement. Given that this was the subject of the other appeal and the statement clearly relates to the front extension I have regarded this to be in error.

Ground (e)

4. An appeal under ground (e) is made on the basis that copies of the enforcement notice were not served as required by section 172. Section 172 (2)(b) of the Town and Country Planning Act 1990 (as amended) requires that a copy of an enforcement notice be served (a) on the owner or occupier of the land to which it relates and (b) on any other person having an interest in the land being an interest which, in the opinion of the authority, is materially affected by the notice.
5. The appellant says that the notice was not served on Mr Ishwarlal Gohil, who he identifies as the freeholder of the building. The Council have provided a copy of a land registry search carried out on 16 July 2018 which names Ishwarlal Jagmitradas Gohil as one of the landowners. The schedule of parties served with a copy of the notice includes Mr Gohil and a copy of the notice was served by hand to the occupiers of the site. On this basis the Council did all it reasonably could to ensure that the notice was correctly served.
6. For the reasons set out above, I conclude that the appeal on ground (e) should fail.

Ground (a) and the Deemed Planning Application

7. An appeal under ground (a) is on the basis that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to have been granted.

Main issues

8. The main issues are the effect of the development on:
 - The character and appearance of the site and the surrounding area.
 - The pedestrian environment, with particular regard to convenience and safety

Reasons

Character and appearance

9. 225-227 Ley Street (Nos. 225/227) occupy a prominent corner site at the junction with Christchurch Road. GB supermarket is located on the ground floor and there are two floors of accommodation above. All three floors are taller than the adjacent row of houses and shops which are of domestic scale albeit many are in commercial use. As a result, the building, which also has a parapet concealing a pitched roof, is of a scale and massing which dominates the street scene.
10. In common with the attached terrace the building is set back from the Ley Street frontage but occupies the back edge of the pavement in Christchurch Road. It is constructed in buff brick with decorative red brick banding around and between the windows and under the parapet wall and there is an attractive fascia incorporating moulded console brackets and pilasters. Although the building strongly contrasts with the regimented appearance of the terraces, which in some cases retain two storey front bay features in their entirety, it makes a positive contribution to the street scene. Furthermore, in combination

with the three-storey structure on the opposite corner it successfully marks the entrance to Christchurch Road.

11. The single storey front extension which is the subject of the notice fills the space between the building and the pavement. The nature of the structure and the solidity of the walls supporting the shopfront glazing, advertising panels and shutters is at odds with the set-back arrangement of the adjacent houses and shops and the open areas next to the pavement. The design and detailing of the extension also detract from the decorative features on the existing building and undermines the positive impact which the building has on the townscape.
12. The appellant has submitted evidence to demonstrate that a structure has been present on the forecourt space since 2008. This took the form of a lean-to roof supported by posts. Whilst also incompatible with the building and the streetscene, this feature had the advantage of being less enclosed and lower in height than the extension which it has been replaced by. Although it could be argued that the previous canopy sets a precedent for some means of protecting the display of goods on the street frontage, it does not outweigh the harm which the current extension has on the character and appearance of Ley Street.
13. I conclude that the single storey front extension has a harmful effect on the character and appearance of the site and the surrounding area. Therefore, the development is contrary to Policies LP9, LP26 and LP28 of the Redbridge Local Plan 2015-2030 (2018) (the Local Plan). These policies require development to contribute to local character, to make a positive architectural and urban design contribution to its context and location and to take available opportunities to improve an areas character and quality.

The pedestrian environment

14. The Council cites the effect of the front extension on pedestrian movements on the corner which forms part of the junction of Ley Street with Christchurch Road. However, there is no evidence to substantiate this impact. During my site visit I noted that the footprint of the extension is very similar to the extent of the forecourt in front of the building. There is information to demonstrate that this area has been used for the display of produce for several years and that this function would have restricted the available pedestrian space to a comparable degree to the front extension. On this basis I do not find that the extension has had an appreciably greater adverse impact on pedestrian movements at the junction.
15. I also noted that there is a bollard on the corner of the street which prevents vehicles from oversailing the pavement and textured paving to identify a crossing point. Furthermore, a nearby bus stop is sufficiently far from the access to the shop and the corner so that travellers waiting for the bus would not impede the use of the pavement alongside the site.
16. I conclude that the front extension would not have a harmful impact on the pedestrian environment, with particular regard to convenience and safety. The development is in accordance with Policy LP26 of the Local Plan which seeks to ensure an accessible environment. I do not find Policy LP23 of the Local Plan which relates to Cycle and Car Parking as of relevance to this main issue.

Conclusion in respect of ground (a) and the DPA

17. Notwithstanding the lack of harm which I have found in regard to the impact on the pedestrian environment, the harm which I have identified to the character and appearance of the appeal site and the surrounding area is sufficient to warrant refusing planning permission.
18. For the reasons given above, I conclude that the appeal on ground (a) should fail and the deemed planning application should be refused.

Ground (f)

19. An appeal under ground (f) is on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
20. The appellant has submitted a floor plan to show an alternative to the removal of the single storey front extension (the alternative extension). This takes the form of a modification to reduce the size of the extension. The Council say that the notice is aimed at remedying the breach of planning control and refers to an appeal decision in respect of an enforcement notice for a canopy and side gate at 201 Edgware Road (Appeal Reference: APP/T5150/C/16/3166305) in relation to the question of an alternative scheme.
21. In this case the appellant has not provided sufficient details in the form of elevations of the extension to allow a full assessment to be made of the alternative which he is putting forward. Even if those details were submitted the alternative scheme would not remedy the breach as it has been described by the Council.
22. Furthermore, although the width of the extension is shown as reduced on the floor plan for the alternative extension, its depth would be the same as the existing front extension and I have no assurance that the height would be lower. Consequently, the alternative extension would still be of a significant size and it would not remedy the harm to the character and appearance of the site and the surrounding area which I have found.
23. The appellant also offers to paint the front shutters a colour to be agreed by the Council. Notwithstanding whether such a requirement could be regarded as 'vague', there are no details before me to illustrate the appearance of the site with the shutters painted a different colour and I do not find that such works would remedy the breach or outweigh the harm to amenity.
24. In summary, neither the alternative extension nor the repainting of the shutters, either individually or collectively, provide viable alternatives to full compliance with the notice. Thus, the steps required by the notice have not been demonstrated to exceed what is reasonable.
25. For the reasons set out above the appeal under ground (f) fails.

Ground (g)

26. Ground (g) is that the period specified for compliance with the notice falls short of what should reasonably be allowed. The appellant considers that the 3-month compliance period in the notice is insufficient to allow him to engage

builders to remove the extension and that the works have to be carried out with particular care to avoid disruption to the business and ensure the safety of the public. He regards six months as an appropriate minimum period for compliance. The Council considers that 3 months are sufficient and cites its own use of contractors carrying out similar works in a single day.

27. There is no evidence before me to demonstrate that builders are in short supply in the area or that the extension would take an extended time period to be demolished, even taking the need for caution and public safety into account. I also observed that at least some of the front wall of the building has been retained behind the extension which itself would provide a degree of separation between the building works and the use of the shop, thus securing the protection and comfort of customers.
28. Taking all of these matters into consideration I find that the 3-month period afforded by the notice does not fall short of what is a reasonable period of compliance. For the reasons given above, I conclude that the appeal on ground (g) should fail.

Conclusion

29. 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 deemed application.

Sarah Dyer

Inspector