



Appeal Decision

Site visit made on 24 February 2020

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2020

Appeal Ref: APP/E5900/C/19/3235769

3 Ambassador Square, London E14 9UX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act) by the Planning and Compensation Act 1991.
 - The appeal is made by Mr R Patel against an enforcement notice issued by the Council for the London Borough of Tower Hamlets.
 - The enforcement notice was issued on 19 July 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised erection of a single storey side extension (not in accordance with approved plans ref:ENF/11/02763).
 - The requirements of the notice are
 - 1) Remove the single storey side extension in its entirety
 - Or;
 - 2) Construct the single storey side extension in accordance with the approved plans of planning permission ref:PA/18/01011
 - 3) Remove all waste materials from the site as a result of carrying out these remedial works
 - 4) Make good any damage to the property as the result of carrying out these works
 - 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.
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Decision

1. It is directed that the enforcement notice is corrected by:
 - In Section 3, deletion of "(not in accordance with approved plans ref:ENF/11/02763)";
2. Subject to the correction, 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 unauthorised erection of a single storey side extension at 3 Ambassador Square, London E14 9UX as shown on the plan attached to the notice.

Procedural Matters

3. The Act at s173(1)(b) requires an enforcement notice to specify whether the alleged breach falls within s171A(1)(a) the "carrying out development without planning permission" or s171A(1)(b) failing "to comply with any condition or limitation subject to which planning permission has been granted." The notice in this case did not specify which of those paragraphs the alleged breach falls

within. However, at section 3 of the notice, it is confirmed that the matters concern development without planning permission. Furthermore, in section 4, reference is made to the 4 year period which clearly relates to the time limit for taking enforcement action for the described operational development. In spite of the omission, the notice clearly tells the recipient what they have allegedly done wrong. The appellant has understood the notice and has not been prevented from formulating the grounds of appeal.

4. Also, in section 3 of the notice, an incorrect reference is given for a previous planning permission for the construction of a single storey, storage building at the site. As well as being erroneous, it is unnecessary to refer to any planning permission because no reliance is placed upon the previous planning permission by either party with respect to the definition of the breach of planning control. Given the breach of planning control relates to the construction of a building and not a breach of a planning condition, there is no need to refer to any planning permission reference. I can therefore correct the notice by deleting it without causing injustice to either main party, using my powers under s176(1)(a).
5. After the issuing the notice, the Council adopted the Tower Hamlets Local Plan 2031: Managing Growth and Sharing Benefits was adopted by the Council on 15 January 2020 (THLP). The parties have been given an opportunity to comment on this change to the development plan. I have been referred to the policies that are most relevant and which supersede those from the previous policy documents apart from the London Plan 2016 (LP) which remains part of the development plan. LP Policy 7.4 "Character" is referred to within the evidence of both main parties and so I have also referred to it.

Ground (a) appeal and the Deemed Planning Application

Main issues

6. The main issue is the effect of the development on the character and appearance of the area. The site is close to but not within the Chapel House Conservation Area (CA) but I will consider the impacts upon the setting of that.

Reasons

7. Ambassador Square includes mainly 3 storey modern residential properties set out around a pleasant, secluded courtyard with entrance gates providing a further degree of privacy for residents. The entrance to the courtyard is at the end of Cahir Street which contains simple, traditional terraced dwellings which are within the CA. However, some of the modern 3 storey properties which back onto Ambassador Square front onto Cahir Street which at that point forms the boundary of the CA.
8. The appeal site is a 3 storey end of terrace property positioned in the northern corner of Ambassador Square. The unauthorised single storey extension has been constructed to the side of the existing building and is set back substantially from its front elevation. In this position, the building is difficult to see from Cahir Street. The only view of the building that I could gain from the roads surrounding Ambassador Square and therefore from the CA, was from a distance, through a gap between buildings to the east in Hesperus Crescent. From that position, the building is not at all prominent and has a very restrained impact upon the CA.

9. To the north of the appeal site, the land rises up substantially towards the busy Spindrift Avenue. It is very difficult to see the extension from the path alongside the road due to the sudden change in land levels and also due to the mature vegetation screening that side of the appeal site.
10. The building has a simple modern appearance with a pitched roof which looks subservient alongside the parent building and has been constructed of similar materials. Although the Council is concerned that this is bigger than what they have previously approved, the additional impact simply through increased size would in my view be very limited. The building has a larger front gable than the previously approved design but the changes in my view do not make the building look out of place or unsympathetic to the host building. The extension has a subtle impact upon this and the neighbouring buildings. It respects the built form and local character of the area.
11. In relation to the main issue, the development does not have a harmful effect on the character and appearance of the area. The building in my view represents good urban design which complements the architectural language of the area in terms of scale, composition and articulation of the building form, as well as the design and detailing. Furthermore, the building has very little impact upon the streetscape or the historic environment and as such has no effect upon the significance of the CA. The development therefore complies with THLP Policies S.DH1 and S.DH3 as well as LP Policies 7.4, 7.5 and 7.8.

Other matters

12. No planning conditions have been suggested by either main party and as the extension has been completed externally, I do not consider that any are necessary.

Conclusion

13. For the reasons given above I conclude that the appeal should succeed on ground (a). I shall grant planning permission for the unauthorised erection of a single storey side extension as described in the notice, as corrected. The appeal on ground (g) does not therefore need to be considered.

A Harwood

INSPECTOR