



Appeal Decisions

Site visit made on 14 March 2020

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2020

Appeal A Ref: APP/G5750/W/19/3231014 **31 Norwich Road, Forest Gate, London E7 9JJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Aviram against the decision of the Council of the London Borough of Newham.
 - The application Ref 19/00440/FUL, dated 12 February 2019, was refused by notice dated 17 April 2019.
 - The development proposed is described as: Enlargement of the front lightwell with stair access, the insertion of a window at basement level of the front elevation and the creation of a small rear lightwell at the ground/basement flat.
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Appeal B Ref: APP/G5750/C/19/3231025 **31 Norwich Road, London E7 9JJ**

- 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 Aviram against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice was issued on 17 May 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission the excavation of a front lightwell, including the addition of a stepped access with surrounding railings and the insertion of a window at basement level on the front elevation of the property.
 - The requirements of the notice are:
 1. Demolish the front lightwell, stepped access, railings and window at basement level (as shown edged yellow on the photograph attached at Appendix 1) and return the front elevation of the property to its form prior to the unauthorised works.
 2. On completion of step 1, remove all materials and debris from the site.
 - The period for compliance with the requirements is five months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended.
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Appeal A Decision

1. The appeal is dismissed.

Appeal B Decision

2. 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 1990 Act as amended.

Preliminary Matters

3. The planning application form and appeal form for Appeal A contain no name for the appellant. But it has been confirmed that this is as is stated in the headings above.
4. During the appeal an amended plan was provided. This differs from the plan which was before the Council when it determined the planning application. However, as interested parties have not had the opportunity to comment on this plan, I have considered and determined Appeal A on the basis of the scheme and the plan which was before the Council when it decided the planning application.
5. At my site inspection it was clear that the development which is the subject of the enforcement notice has been changed. Under section 177 of the above Act, planning permission may be granted under ground (a) for an enforcement appeal only in respect of the matters stated in the enforcement notice. So the deemed planning application in the enforcement appeal cannot include a different development and I have dealt with the enforcement appeal on this basis.
6. My attention has been drawn to Policies D1 and D2 of the draft London Plan dated December 2017. However, no evidence has been provided that satisfies me these policies will be published in their current form and so I give them limited weight in these decisions.

Reasons

The appeal on ground (a) and the section 78 planning application

7. The main issues in the ground (a) appeal and planning application appeal are the effect of the development on:
 - the character and appearance of the area, and
 - the front amenity space and parking.

Character and Appearance

8. The area is mainly characterised by pairs of semi-detached early 20th century homes with front gardens, some of which are used for car parking. The appeal site contains half of one such pair. In terms of its shape and layout, from the street the appeal property mirrors its adjoining property which has a front forecourt used for car parking and no lightwell. It is within the Forest Gate Area of Townscape Value, which the evidence indicates is an area of heritage value worthy of inclusion within a designation.
9. The development in dispute for both appeals is the front lightwell with stair access which is surrounded by railings. Whilst what was present at the time of my visit was different to the development which was the subject of the planning application and the enforcement notice, the development is clearly described by the planning application drawing and the photograph in Appendix 1 of the enforcement notice.
10. The appeal lightwell is of considerable width and depth. It accommodates a staircase down to the basement and would be clearly seen from the pavement when walking past the appeal property. Its presence would have been

significantly exacerbated by the tall railings which surrounded it, giving a cluttered appearance to the front of the appeal property. In this context, where the appeal property is clearly seen together with the adjoining property which it mirrors, the lightwell, stairs and railings would have appeared as incongruous and alien features in the street scene.

11. My attention has been drawn to examples of other lightwells which exist or which have been approved by the Council. However, most of these are on a different street and/or are not seen within the context of the appeal site or were approved a considerable time ago. There is no evidence the permissions I have been referred to remain extant.
12. For those lightwells closer to the appeal site, including those at Nos 30, 32 and 40 Norwich Road, there is no evidence these have been approved by the Council or that if they were approved, that this occurred within the planning policy context which exists now. Moreover, a lightwell seen at No 25 is of an entirely different design to the appeal development so in my judgement it is not comparable.
13. Considering all of the above points, in my judgement, in the context of current planning policies, the other lightwells I have been referred to do not justify the development which is the subject of these appeals and so I give them limited weight.
14. On this main issue I conclude the appeal development harms the character and appearance of the area. Accordingly, in this regard, it does not comply with Policies 7.4 and 7.6 of the London Plan 2016 (as amended) (the London Plan), Policies SP1, SP3, SP5 and SP8 of the London Borough of Newham Local Plan 2018, the Altering and Extending Your Home Supplementary Planning Document 2018 (the SPD) or the design policies of the National Planning Policy Framework.
15. I note the appellant considers the SPD to be of little relevance but it relates to 'any works' to the front of a property and so it is relevant in this case.

Amenity Space and Parking

16. The evidence indicates the lightwell in the appeal development takes up space which previously contributed to the accommodation of an off-street car parking space. The Council identifies that the loss of the off-street parking facility leads to greater competition for on-street parking spaces.
17. Whilst this may be a logical likely effect of the development, the Council has not explained what harm arises as a result. Nor is any obvious based on the limited information provided in this regard, noting in particular that the Council indicates that the works do not negatively impact on the amenity of individual properties.
18. There is no evidence the remaining area at the front of the property does not provide sufficient space for pedestrian access and storage for items such as bins and recycling. Consequently, there is no evidence the appeal development would have a harmful effect on the front amenity space or parking. Accordingly, I find no conflict with the development plan policies or other planning policy sources identified in the enforcement notice or decision notice in this regard.

Other Matters

19. The appeal development provides an additional entrance to what the evidence indicates is a ground floor and basement maisonette. But there is no evidence which justifies why an additional entrance is needed, particularly when balanced with the harm identified above. Nor has it been explained how an additional entrance makes the flat in question more secure as is suggested by the appellant.
20. I appreciate the new basement window may provide better natural light and outlook. But this must be balanced against other effects of the development and does not change my conclusions on the appeals overall.
21. I note there may have been no objection from residents on Norwich Road. But this does not make the appeal development acceptable in light of the harm identified above.

Conclusion

22. Whilst I have not found harm in terms of the effect of the development on amenity space and parking, the development is harmful in terms of its effect on the character and appearance of the area. I therefore find conflict with the development plan overall and so the appeal on ground (a) and the section 78 planning application appeal both fail.

The appeal on ground (f)

23. Under section 173(4) of the above Act, when serving an enforcement notice the Council may seek to (a) remedy the breach of planning control, or (b) remedy any injury to amenity which has been caused by the breach.
24. In this case, the purpose of the enforcement notice is to remedy the breach of planning control. This is clear from section 4 of the notice where it is stated the Council seek to return the land to its former state.
25. Whilst the appellant proposes alternative works, no lesser steps have been suggested which would achieve the purpose of the notice. As such, the appeal on ground (f) fails.

Appeal A Conclusion

26. For the reasons given above the appeal is dismissed.

Appeal B Conclusion

27. For the reasons given above I conclude that the appeal does not succeed. I uphold the enforcement notice and refuse to grant planning permission on the deemed application.

L Perkins

INSPECTOR