

Appeal Decisions

Site visit made on 16 March 2020

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 12 June 2020

Appeal A Ref : APP/G5750/C/19/3235950

Appeal B Ref : APP/G5750/C/19/3235951

Land at 188 Lathom Road, East Ham, London, E6 2DZ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- Appeal A is made by Ms Sufia Tailor and appeal B is made by Mr I Tailor against an enforcement notice issued by the Council of the London Borough of Newham.
- The notice was issued on 26 July 2019.
- The breach of planning control as alleged in the notice is without planning permission the erection of an extension to front of the property comprising a porch and canopy.
- The requirements of the notice are 1. demolish the front extension comprising a porch and canopy (as shown edged in yellow on the photograph attached at Appendix 1 to the notice) and return the front elevation of the property to its form prior to the unauthorised works and 2. on completion of step 1 above, remove all materials and debris from the site.
- The period for compliance with the requirements is three months.
- Appeal A is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Appeal B is proceeding on the grounds set out in section 174(2) (f) and (g) of the 1990 Act (as amended).

Summary of Decision: the notice is varied as set out in the Formal Decision and subject to that variation the enforcement notice is upheld.

Appeal A

Ground (a) appeal and deemed application

Main Issue

1. The main issue in the determination of this appeal is the effect of the development on the character and appearance of the host dwelling and the surrounding area.

Character and appearance

2. The appeal site is a terraced residential property located in a primarily residential area. The surrounding area is characterised by properties of a similar size and style to the appeal property.
3. The development plan (including the London Plan and the London Borough of Newham Local Plan (the Local Plan)) mirrors the National Planning Policy Framework (the Framework) in seeking to ensure that development respects its surroundings. Policy SP3 of the Local Plan sets an expectation that all development realises a high quality of urban design and policy SP8 of the

Local Plan provides that all development is expected to achieve good neighbourliness. I have also taken into account as a material consideration the supplementary planning document 'Altering and Extending Your Home' (the SPD) which states that any works to the front of properties should seek to complement and enhance the original character of the property and the wider streetscene.

4. The porch and canopy the subject of this appeal cover a significant element of the front elevation of the dwelling. The development is highly visible in the streetscene. It dominates the host dwelling and its bay window which is a feature of the property and others in the locality. It does not complement the character of the property and is alien to the character and appearance of the wider area.
5. I note that there are other porches and canopies nearby. I do not know the circumstances of those sites and will determine this appeal on its own particular facts. In any event similar development is not so widespread as to be characteristic of the area.
6. The Appellants argue that the extension improves the social condition of the area by providing better living standards for an extended family. Whilst I recognise the potential social benefits these are outweighed by the harm to the character and appearance of the area and I am not satisfied that such benefits could not be achieved without undue harm.
7. I conclude that the development causes undue harm to the character and appearance of the host dwelling and the surrounding area. It is contrary to relevant policies in the development plan (including policies SP3 and SP8 of the Local Plan), the Framework and the SPD.
8. I have considered whether conditions could overcome the identified harm. I have taken into account the Planning Practice Guidance. The Appellants have suggested a change in the colour of the bricks but this would not remedy the harm caused by the size and design of the development. I do not consider that conditions could overcome the identified harm.
9. For the reasons given above, planning permission should not be granted on the deemed application and this ground of appeal does not succeed.

Appeals A and B

Ground (f) appeals

10. This ground of appeal is that the steps to comply with the notice are excessive.
11. There are two purposes which an enforcement notice can seek to address. The first is to remedy the breach of planning control and the second is to remedy the injury to amenity caused by the breach. In this case the notice requires demolition of the porch and canopy. Its purpose is therefore to remedy the breach of planning control. No lesser steps than those set out in the notice would satisfy the purpose of returning the site to its condition before the unauthorised development took place.

12. The Appellants argue that the notice should be amended to enable the works to be modified to be subordinate and to comply with policy or be permitted development. But no detail is provided of any proposed lesser steps and there is no alternative scheme before me. It is not within my remit in these appeals to speculate as to potential alternative schemes.
13. For the reasons given above, the ground (f) appeals do not succeed.

Appeal A and B

Ground (g) appeals

14. This ground of appeal is that the period for compliance with the notice is unreasonably short. The notice provides for a three month compliance period. Given that the appeals were submitted before the Covid-19 pandemic the Inspectorate sought the views of the parties as to whether the current circumstances relating to the pandemic are likely to effect what may be considered to be a reasonable period. I have taken the views received from the parties into account.
15. The Appellants argue that a period of no less than 10 months would be reasonable to enable a contractor to be found, alternative arrangements to be made for family members and for building works to be completed. They say that the pandemic makes it difficult to appoint a builder and has increased risks of unemployment and redundancy.
16. The Council say that the physical works required by the notice are relatively straightforward and should not take long to complete. They consider that extending the compliance period to 10 months would be seriously excessive and be akin to the grant of temporary planning permission and that there is no overriding reason why the period should be extended at this time.
17. The rights of the Appellants and family members must be taken into account. Interference with the way the Appellants use the property must be proportionate taking into account the conflicting considerations of public and private interest. I have balanced competing interests – the private interest of the Appellants in developing their home and the public interest of bringing to an end the identified harm without unnecessary delay.
18. The works to comply with the notice are not complex and there is no evidence before me that the family would necessarily need to move out whilst those works were being undertaken. But I do recognise the current uncertainty in commissioning contractors and the inevitable disruption to family life. I conclude that five months would be a reasonable time in which to expect the requirements of the notice to be undertaken. It would strike the appropriate balance between the conflicting public and private interests and be proportionate so as not to violate individuals' rights. To this limited extent the appeals on grounds (g) succeed.
19. In the current context of uncertainty concerning Covid-19 I note the Council's powers to vary the period of compliance if circumstances render it appropriate.

20. For the reasons given above I shall vary the period for compliance with the notice to five months prior to upholding it. The ground (g) appeals succeed to that extent.

Formal Decisions

Appeal A

21. It is directed that the enforcement notice be varied by the substitution of a five month period for compliance. Subject to that variation the notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

Appeal B

22. It is directed that the enforcement notice be varied by the substitution of a five month period for compliance. Subject to that variation the notice is upheld.

S. Prail

Inspector