
Appeal Decision

Site visit made on 7 July 2020

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 July 2020

Appeal Ref: APP/N5090/C/19/3237243

72 Colin Park Road, London NW9 6HS

- 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 Mrs Shila Patel against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The enforcement notice was issued on 12 August 2019.
 - The breach of planning control as alleged in the notice is the construction of a single storey front, side and rear extension.
 - The requirements of the notice are 1. Demolish the single storey front, side and rear extension; and 2. Permanently remove all constituent materials resulting from the works in 1 above from the property.
 - The period for compliance with the requirements is three months.
 - The appeal 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.
-

Decision

1. The enforcement notice is varied by:
 1. The insertion of 'OR alter the extension so that it complies with planning permission W12295/00' after 'extension' in the first requirement in section 5 of the notice;
 2. The deletion of '3 months' in section 6 of the notice and the substitution instead of '6 months'.
2. Subject to these variations the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Reasons

The ground (a) appeal

3. A retrospective planning application (Ref. No. 19/2138/RCU) was submitted for the extension that is the subject of the enforcement notice in April 2019. The application was refused and a subsequent appeal was dismissed. The reasons for refusal of the planning application and the issues considered by the Inspector are the same as the reasons for issue of the enforcement notice. Those reasons have therefore been considered by an Inspector and he reached firm conclusions that the extension, specifically a projecting element of the rear extension, has a harmful effect on the character and appearance of the appeal property and the surrounding area, and that the extension has a harmful effect on the living conditions of the

occupiers of 74 Colin Park Road. There is no reason to disagree with these conclusions and those reached by the Inspector on discord with Development Plan policies. The ground (a) appeal thus fails.

The ground (f) appeal

4. Planning permission W12295/00 was granted on 30 August 2000 for a 'single storey front, side and rear extension'. The footprint of the permitted extension is the same as the footprint of the extension that is the subject of the enforcement notice. The Appellant implemented the permitted development but changes were made to its internal layout and, crucially, to the form of the roof over the projecting element of the rear extension. This element in the permitted development would have a pitched gable roof whereas in the scheme as built it has a monopitch roof. It is this roof form, given its height and, particularly, its proximity and position relative to the garden area at 74 Colin Park Road, that causes the harm identified by the previous Inspector.

5. The delegated report for the retrospective planning application did not find that the front and side elements of the extension as built cause any harm to the character and appearance of the area or to residential amenity. Essentially, the extension has not been constructed in accordance with the development approved under planning permission W12295/00. If it had been the Council would have had no cause to issue the enforcement notice. In these circumstances the requirements of the notice are excessive by not including an alternative to the demolition of the extension; alteration of the extension so that it complies with planning permission W12295/00.

6. The ground (f) appeal succeeds and the first requirement of the enforcement notice has been varied to include an alternative requirement to the demolition of the extension, compliance with planning permission W12295/00.

The ground (g) appeal

7. Three months is not a reasonable period within which to engage a suitable contractor and for the necessary demolition or alteration works to be carried out, particularly, at this time, whilst the COVID-19 pandemic is continuing. The ground (g) appeal thus succeeds and the period for compliance with the requirements of the notice has been varied to be six months.

John Braithwaite

Inspector