



Appeal Decision

Site visit made on 27 July 2020

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 August 2020

Appeal Ref: APP/E5900/C/19/3240874

23 Swaton Road, London E3 4ES

- 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 Muhammad Karim against an enforcement notice issued by the Council of the London Borough of Tower Hamlets.
 - The enforcement notice was issued on 18 October 2019.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a single storey rear extension.
 - The requirements of the notice are:
 1. Remove the unauthorised single storey rear extension along with all its fixtures and fittings, from the land and host building; and
 2. Remove all resultant debris from the site and make good any damage caused to the land and host building by the unauthorised installation and removal of the rear extension.
 - The period for compliance with the requirements is 6 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. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. 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 erection of a single storey rear extension at 23 Swaton Road, London E3 4ES as shown on the plan attached to the notice and subject to the following condition:
 - 1) The single storey rear extension hereby permitted shall be demolished to ground level and all materials resulting from the demolition shall be removed within 30 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme for the external materials and finishes to be used on the flank wall of the single storey rear extension facing towards No 25 Swaton Road shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within

- the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Procedural Matters

- 2. During the course of this appeal, the London Borough of Tower Hamlets Core Strategy (2010) and Managing Development Document (2013), and policies contained within it, has been replaced with the London Borough of Tower Hamlets Local Plan 2031: Managing Growth and Sharing Benefits (LP), which was adopted on 15 January 2020. Therefore, this must now be given full weight in the decision making process. The Council has provided copies of the relevant recently adopted LP policies and the appellant has been given the opportunity to respond, and so has not been prejudiced. I have therefore not assessed the development against the policies of the superseded Core Strategy and Managing Development Document.
- 3. During my site visit, I also viewed the development from No 25 Swaton Road. I shall return to this matter later in my decision.

Ground (a) appeal and the Deemed Planning Application

Main Issue

- 4. The main issue is the effect of the development on the living conditions for the occupiers of No 25 Swaton Road, with particular regard to outlook.

Reasons

- 5. Both main parties, and a neighbouring occupier have submitted their views on the effects of the development on outlook to neighbouring occupiers of No 25 Swaton Road. Owing to the single storey height of the rear extension, with a shallow pitch roof, not rising significantly above the existing side boundary fence between Nos 23 and 25, I agree with the appellant that the height and scale of the extension in itself, does not have a harmful on the occupiers No 25 with regards to outlook.
- 6. It appears to me it is the current poor unfinished nature of flank wall, facing towards No 25 which causes harm to the neighbouring occupiers of No 25, with regard to outlook. I note however that the appellant is willing to accept a condition to finish this side of the extension facing towards No 25 in a more harmonious and coherent appearance, which would overcome the visual harm caused by existing appearance of the flank wall. I therefore find that, subject to a condition requiring the implementation of a satisfactory external finish of the

flank wall facing towards No 25, the development would not harm the living conditions of the occupiers of No. 25, with regard to outlook.

7. I therefore find no conflict against Policies S.DH1 and D.DH.8 of the LP, which amongst other things, seeks to ensure that development is required to meet the highest standards of design, layout and construction which respects and positively responds to its context, and that development is required to protect and where possible enhance or increase the extent of the amenity of new and existing buildings and their occupants.

Other Matters

8. Condition 1 is imposed is to ensure that details of the external materials and finishes are submitted, approved and implemented to overcome the harm caused to the living conditions for the occupiers of No 25, with regards to outlook and thus make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of the outstanding detailed matter before the development takes place. The condition will ensure that the development can be enforced against if the required details are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with an approved timetable. Should the requirements of the condition not be met in line with the strict timetable, then the planning permission falls away.
9. No further conditions have been suggested by the Council and as the development appears to be largely completed, there is no need for any additional conditions.

Conclusion

10. For the reasons given above I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development described in the enforcement notice. The appeal on ground (f) do not therefore fall to be considered.

R Satheesan

INSPECTOR