
Appeal Decisions

Site visit made on 13 October 2020

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2020

Appeal A Ref: APP/Y5420/C/20/3246873

48 Ferndale Road, London N15 6UQ

- 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 Ephraim Gottesfeld against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The enforcement notice was issued on 22 January 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a single storey rear infill extension.
 - The requirements of the notice are:
 1. Demolish the single storey rear infill extension in its entirety and return the property back to its form before the unauthorised works were undertaken, or;
 2. Modify the extension so that it accords with drawing numbers PL01, PL02, PL03, PL04 REV01 associated with planning permission HGY/2019/1131, granted by the Council on 5 June 2019.
 3. Remove from the land any debris resulting from carrying out step 1) above
 - The period for compliance with the requirements is 4 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. 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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Appeal B Ref: APP/Y5420/D/20/3249795

48 Ferndale Road, Tottenham, London N15 6UQ

- 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 Rosner against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2020/0194, dated 27 November 2019, was refused by notice dated 26 February 2020.
 - The development proposed is a rear infill extension with Succah Roof.
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Decisions

1. **Appeal A:** 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 infill extension, at 48 Ferndale Road, London N15 6UQ as shown on the plan attached to the notice and subject to the following conditions:

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan FE.48.LP, FR.48.PR.01, FR.48.PR.02 and HA.31.PR.03.
 - 2) The external surfaces of the extension hereby permitted shall match those used in the construction of the existing building.
 - 3) The roof area of the extension hereby permitted shall not be used as a balcony, roof garden or similar amenity area.
2. **Appeal B:** The appeal is allowed, and planning permission is granted for the rear infill extension with Succah Roof, at 48 Ferndale Road, Tottenham, London N15 6UQ, in accordance with the terms of the application Ref HGY/2020/0194, dated 27 November 2019, subject to the following conditions:
- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan FE.48.LP, FR.48.PR.01, FR.48.PR.02 and HA.31.PR.03.
 - 2) The external surfaces of the extension hereby permitted shall match those used in the construction of the existing building.
 - 3) The roof area of the extension hereby permitted shall not be used as a balcony, roof garden or similar amenity area.

Background and Preliminary Matters

3. As set out above, there are two appeals on this site. For appeal A, ground (a) is that planning permission should be granted for the matters stated in the notice. For appeal B, the appellant states that the planning application was originally made to regularise the 'as built' scheme. I have considered each appeal on its individual merits, however, to avoid duplication I have dealt with the two appeals together, except where otherwise indicated.
4. Prior to the current unauthorised works, the appeal property has been previously extended with a number of approved extensions¹. More recently planning permission was granted for a rear infill extension with Succah roof². The appellant accepts that the development was not built in accordance with this approval, which resulted in the serving of the enforcement notice. I shall therefore deal with the unauthorised works, as alleged within the notice, below.

Appeal A on ground (a), the deemed planning application and Appeal B

Main Issues

5. The main issue in both appeals is the effect of the development upon the living conditions for the neighbouring occupiers of Nos 122 and 124 Fairview Road, with particular regard to outlook and daylight.

¹ Council ref: HGY/2016/2312 for the erection of a type 3 roof extension approved on 9 September 2016; Council ref: HGY/2016/2207 for prior approval the erection of single storey extension which extends beyond the rear wall of the original house by 5m, for which the maximum height would be 3m and for which the height of the eaves would be 3m approved on 16 August 2016.

² Council ref: HGY/2019/1131 approved on 5 June 2019.

6. With regard to Appeal B there is an additional main issue:

- the effect of the development upon the character and appearance of the host building and area.

Reasons

Appeals A and B: Living conditions for Nos 122 and 124 Fairview Road - outlook and daylight

7. The appeal site is a three storey end of terraced property, and the rear infill extension, the subject of both appeals, is positioned along the rear boundary with the neighbouring properties at Nos 122 and 124 Fairview Road. Prior to the current development, the outlook from the rear ground floor windows and gardens of Nos 122 and 124 Fairview Road would be of a high close boarded timber fence.
8. The Council state³ that the previously approved side infill extension measured 5.5m deep and 2.4m high along the boundaries with Nos 122 and 124. The approved scheme also contained a Succah roof, close to the boundary with these neighbouring properties on Fairview Road which would have rose above both the existing timber fence and the previously approved sloping roof of the extension. The approved side infill extension was also set back from the remainder of the ground floor extension, such that the rear extension had a stepped rear building line.
9. The current development infills the area to the side of the ground floor extension, so that the extension no longer has a stepped rear building line. I also note that the height along the boundary with Nos 122 and 124 has increased and the extension now contains a flat roof with the Succah roof repositioned towards the centre of the roof, further away from the adjacent gardens on Fairview Road.
10. However, owing to the single storey height and flat roof design of the extension, rising marginally above the existing rear boundary fence with Nos 122 and 124, together with the repositioned Succah roof further away from the boundary with Nos 122 and 124, the development does not have a harmful effect on these neighbouring occupiers with regards to outlook and daylight. Furthermore, I also observed that the ground levels of these adjacent gardens on Fairview Road were higher than the existing ground level of the appeal site, further mitigating against any harmful impact in terms of outlook and daylight.
11. Whilst I acknowledge that the rear gardens on Fairview Road are relatively modest in size, for the reasons outlined above, the development does not result in any harmful effect in relation to outlook and daylight for occupiers of Nos 122 and 124.
12. As such I find no conflict against Policy 7.6 of The London Plan, 2016 (London Plan), Policy SP11 of the Haringey's Local Plan, 2017 (LP), and Policies DM1 and DM12 of the Haringey Development Management Development Plan Document, 2017 (DMDPD). Amongst other things, these state that the Council will support development which provide appropriate sunlight, daylight and open aspects to all parts of the development and adjacent buildings and that land

³ Taken from the Officer's Report in Appeal B.

and extensions must be of a high quality, taking account of the amenity of neighbouring uses.

Appeal B: Character and appearance

13. Whilst the Council state that the development occupies more than 50% of the rear garden, the majority of the ground floor rear extension was previously approved, and the current appeal development relates to a relatively small area of the rear garden to the side of the approved ground floor extension. The unauthorised development does not extend beyond the existing rear building line. The infill side extension has also been well designed with a flat roof which matches the existing ground floor extension, and by using matching bricks, the development complements the character of the property and area. I also observed that there were similar sized ground floor extensions in the subject terrace, and therefore the development is in keeping with the area.
14. Furthermore, the modest increase in size of the rear extension to the side of the previously approved ground floor extension has not resulted in any significant loss of amenity space which would be harmful to the living conditions for occupiers of the appeal site. I am therefore satisfied that the design of the single storey rear extension with a Succah roof and matching brick materials appears subservient to the existing building.
15. I therefore conclude that the development preserves the character and appearance of the host building and area. It would therefore be in accordance with Policies 7.4 and 7.6 of the London Plan, Policy SP11 of the LP and Policy DM1 of the DMDPD. Amongst other things, these state that all development must achieve a high standard of design and contribute to the distinctive character and amenity of the local area and comprise details and materials that complement the local architectural character.

Other Matters

16. Comments made by third parties have been taken into account but do not alter the conclusions reached in these decisions. Reference has been made to the installation of an AC unit, noise resulting from the open rooflight, loss of views, and concerns regarding the party wall agreement and damage caused to neighbouring properties during the construction.
17. However, the installation of the AC unit does not feature within the enforcement notice, nor the retrospective planning application and therefore, this is not a matter for me to consider. With regards to the size of the opening Succah roof, I note that the previous approved scheme included a similar Succah Roof, and I have no reason to consider that the current development would result in any significant additional noise and disturbance to neighbouring occupiers. Loss of private views is not a planning consideration. Finally, matters concerning the party wall agreement/damage to neighbour's land are a civil matter and are therefore beyond the scope of these appeals.

Conditions for Appeals A and B

18. I have considered the suggested conditions in the light of the Planning Practice Guidance (PPG), and in the interest of accuracy and clarity I have undertaken some minor editing. As the development has already commenced, there is no

need to impose the statutory time limit for the implementation of the permission. A condition specifying the approved drawings is necessary to provide certainty. A condition is imposed to require matching materials to be used, in the interest of the character and appearance of the area. A condition relating to the use of the flat roof has been attached to protect the living conditions of neighbours.

Conclusion for Appeal A

19. 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 (g) do not therefore fall to be considered.

Conclusion for Appeal B

20. For the reasons given above I conclude that the appeal should be allowed.

R Satheesan

INSPECTOR