
Appeal Decision

Site visit made on 10 November 2020

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 December 2020

Appeal Ref: APP/G5750/C/20/3250920

Land at 156 The Grove, Stratford, London E15 1NS

- 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 J Jurevic against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice was issued on 16 March 2020.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a rear extension comprising a timber frame, plastic sheeting and retractable canopy.
 - The requirements of the notice are:
 1. Demolish the rear extension comprising a timber frame, plastic sheeting and retractable canopy.
 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.
 - 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.
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Decision

1. 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 Matter

2. My attention has been drawn to several policies from The Draft London Plan December 2017 (the DLP). However, no explanation has been given regarding their status, including the extent of any unresolved objections to them consequently, I attach only limited weight to them in decision making terms.

The appeal on ground (a) and the deemed planning application

Background

3. The appeal site, as identified by the red line on the plan attached to the enforcement notice, is located within the Stratford St John's Conservation Area. However, the extension subject of the appeal, is located adjacent to but outside of the Conservation Area boundary, a matter which the appellant pointed out in their evidence. Consequently, notwithstanding the Council's reasons for taking action, I have considered the appeal on this basis.

4. I have also had regard to the Inspector's decision¹ in respect of a previous rear extension at the property. However, I do not have the details of that extension and have considered this appeal based on my site observations and the evidence before me.

Reasons

5. Having regard to the above, the main issue is the effect of the development on the character and appearance of the area including the setting of the Stratford St John's Conservation Area.
6. The significance of the Conservation Area as set out in the Character Appraisal and Management Proposals (March 2009) is in the survival of its irregular, pre-industrial plan form, which forms a wishbone shape around the centrepiece of St John's Church and the trees in its churchyard. The Church is very much the focal point of the Conservation Area, terminating views into, and within it.
7. The appeal property occupies a mid-terrace position in a row of single storey commercial units, a terrace of three storey traditional buildings adjoins the rear of the units, with some residential use of the upper floors. The terrace of buildings within which the property is located is identified as being historically of special interest, as they were originally townhouses with long front gardens. Shops were later built over the front gardens creating 'bungalow' shops.
8. The appeal development is located to the rear and adjoins, thus extends, the appeal property. Although wider public views of the rear of the terrace are limited, I was able to see that a number of properties have been altered and extended and there is some variety in the scale and design of such alterations.
9. Irrespective of the sensitivity of this context and whilst there appears to be no in principle policy objection to extending the restaurant, the extension relates neither in terms of scale, form or design to the host property. It is a rudimentary construction, consisting of poor-quality materials including wooden panels and plastic corrugated sheeting, which does not represent high quality design.
10. Whilst the development is not prominent in wider public views and is screened to some extent in views from the adjoining car park by the tall surrounding wall, it will be visible from the upper floors of surrounding properties. In such views, the extension will appear as a significantly discordant feature.
11. Consequently, whilst reasonably localised in its extent, the development adversely affects the character and appearance of the host property. Such harm to the character and visual qualities of the host property which is part of a terrace identified as being historically of special interest, also translates into harm to the setting of the Conservation Area.
12. The Council referred to the extension being visible from St Francis Roman Catholic Church and the Franciscan Friary, which are identified as buildings of local interest. However, visibility from buildings does not necessarily equate to harm. Whilst I do not consider there is specific harm to the setting of these buildings, I have found harm to the setting of the Conservation Area of which these buildings form a part.

¹ APP/G5750/C/15/3137184

13. Given the scale of the proposal, I consider the harm to the setting of the Conservation Area to be less than substantial. Nevertheless, I am mindful that paragraph 194 of the National Planning Policy Framework (the Framework) states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
14. Paragraph 196 states that where a proposal would lead to less than substantial harm to the significance of such an asset, that harm should be weighed against the proposal's public benefits including, where appropriate, securing its optimum viable use.
15. In this case whilst the development provides additional space and opportunity for larger parties to dine, this is a matter of little weight since it has not been demonstrated that the appeal development is the only means by which such additional space could be provided.
16. Undoubtedly the availability of additional space will aid the business in the current exceptional circumstances associated with the COVID-19 pandemic, given the need for social distancing. However, it would not be reasonable to attribute significant weight to such benefits, given that there is no certainty about how long such measures will be required. Therefore, this is a matter of limited weight.
17. Consequently, the public benefits do not outweigh the great weight that I am required to attach to the heritage asset's conservation. For the reasons given, I conclude that the extension causes material harm to the character and appearance of the host property and the setting of the Conservation Area.
18. The development is therefore contrary to Policies 7.4, 7.6 and 5.3 of the London Plan (2016), Policies SP1 and SP3 of the Newham Local Plan 2018 (the Local Plan) and Policy D1 of the DLP. Together these policies seek high-quality design, comprising details and materials that complement local architectural character and the highest standards of sustainable design and construction. It also conflicts with the design and heritage protection aims of the Framework.
19. In the Council's officer report, it is stated that the Council considers there is scope and consideration should be given to improve the biodiversity value of the site. However, given the location of the development and in the absence of substantive explanation, I find no conflict with Policies SC1 and SC4 of the Local Plan, Policy 7.19 of the London Plan (2016) or Policy G6 of the DLP.
20. The Council referred to Policy SP6 of the Local Plan, which is an overarching strategic policy, Policy SP8 which relates to ensuring neighbourly development and Policy H1 which relates to housing. They also referred to Policy 7.1 of the London Plan (2016) which relates to lifetime neighbourhoods and Policy D2 of the DLP which is a strategic design policy. However, I find none of these policies to be directly relevant to the main issue in this case and they do not advance the Council's argument.
21. For the reasons given above, having regard to all matters raised, the appeal under ground (a) is dismissed and the deemed planning application is refused.

The appeal on ground (g)

22. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant's case on this ground relates to the uncertainty associated with the pandemic including its impact on the availability of contractors and their ability to carry out the required works should regulations change. The appellant did not however suggest what they consider a reasonable period to be.
23. Whilst the additional space which the extension provides will undoubtedly be useful to the business at this time, given the social distancing requirements associated with the pandemic, there is no certainty about how long such distancing measures will be required.
24. The time period given for compliance within the enforcement notice is to allow for the physical works associated with the notice to be removed. Given the relatively straightforward nature of the construction, I consider the period of three months for the demolition of the extension and removal of materials and debris from the land, as specified in the notice, is proportionate to the breach of planning control that has occurred.
25. I acknowledge the uncertainty regarding the restrictions associated with the pandemic. However, should the appellant experience genuine difficulties in complying with the requirements, I note and the Council have also referred to their powers under s173A(1)(b) to extend any period for compliance, a matter which is entirely at their discretion, without prejudicing their right to take further action.
26. Accordingly, the appeal on ground (g) therefore fails.

Conclusion

27. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Felicity Thompson

INSPECTOR