



Appeal Decision

Site visit made on 12 January 2021

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2021

Appeal Ref: APP/U5930/C/20/3254294

4a Salisbury Road, London E17 9JW

- 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 Horace Seedin against an enforcement notice issued by the Council of the London Borough of Waltham Forest.
 - The enforcement notice was issued on 22 May 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a rear dormer roof extension.
 - The requirements of the notice are:
 - 1) Remove the dormer roof extension in its entirety and reinstate the original roof of the Land to its former condition and height; or,
 - 2) Alter the dormer roof extension so that it complies with all the conditions and limitations of Class B of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended); and,
 - 3) Remove all resulting materials, rubble and general detritus from the Land following compliance with either step 1) or 2) above.
 - The period for compliance with the requirements is 8 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (b) and (c) 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 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.

The appeal on ground (b)

2. To succeed on this ground, the onus is upon the appellant to demonstrate on the balance of probabilities that the allegation has not occurred as a matter of fact. This has not been demonstrated. On the contrary, the appellant confirms in their appeal statement that they seek planning permission for the roof extension and that the purpose of the development was to gain much needed bedroom space at second floor level by adding a roof extension to create an additional storey to provide a bedroom with an en-suite facility. Furthermore, the Council's evidence, includes Google images of the site dated 12 August 2016, which shows that the dormer extension was not in existence at this time. Since the appellant accepts that the recent development of a rear dormer roof extension has occurred, on the balance of probabilities, I consider that the matters as alleged by the notice have occurred as a matter of fact.

3. Accordingly, the appeal on ground (b) must fail.

The appeal on ground (c)

4. Ground (c) arises where an appellant seeks to argue that the matters alleged by the enforcement notice do not constitute a breach of planning control. As with ground (b) the onus of proof lies with the appellant, the relevant test of the evidence being the balance of probability.
5. As outlined above, the appellant accepts that the dormer roof extension is a recent addition to the property but contends that it constitutes permitted development by virtue of Article 3, Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). However, Article 3, Schedule 2, Part 1, B.1 (b) of the GPDO states that development is not permitted by Class B if “any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof”. Based on the photographs and plans submitted under this appeal and from my observations during the site visit, the height of the dormer roof extension exceeds the height of the highest part of the existing roof.
6. Therefore, on the balance of probability and based on all the evidence before me, the development does not fall within Article 3, Schedule 2, Part 1, B.1 (b) of the GPDO 2015, for there to be deemed planning permission for the development as built. Therefore, planning permission is required for the development, and there is none in place. There has therefore been a breach of planning control and the appellant has not discharged the onus on him to demonstrate otherwise.
7. Accordingly, the appeal fails on ground (c).

The appeal on Ground (a) and the Deemed Planning Application

Main Issue

8. The main issue is the effect of the development on the character and appearance of the host building and the surrounding area.

Preliminary

9. The Council have referred to the draft New London Plan (DLP). However, as these policies have yet to be adopted, and there is no evidence before me which allows me to make any judgement regarding the extent of unresolved objections, I cannot give them full weight at this time save to acknowledge that they appear not to significantly alter the policies referred to in the extant London Plan.

Character and appearance

10. Whilst there is a range of property types in the wider area, the appeal site comprises a two storey mid terraced dwelling, located within a small terrace (No's 2 to 6 Salisbury Road) consisting of similar sized properties. A particular characteristic and feature of the appeal terrace (of which the appeal site forms part) are the consistent eaves and ridge heights which, despite some differences in materials, provides the terrace with a clear sense of rhythm and uniformity.

11. The rear dormer roof extension including the increase in ridge height as erected extends the building considerably. Whilst there are other properties in the subject terrace (at No's 2 and 6) which also include rear dormer roof extensions, these have been modified following enforcement action to ensure that they do not exceed the existing ridgeline. In this regard, the unauthorised rear dormer including the raised ridge level of the extension introduces an overly dominant and visually discordant feature in the appeal terrace, which is visible from public vantage points on Salisbury Road and Barclay Road. The development diminishes unacceptably the integrity, character and appearance of the host building and terrace with consequent harm to the character and appearance of the surrounding area.
12. In an attempt to justify the development, the appellant has provided photographs of a number of other properties along Salisbury Road which have uneven ridge levels. With regards to 2 and 6 Salisbury Road the Council have confirmed that both dormers at these properties have been reduced in height so that their ridge levels now match the terrace. With regards to No's 13, 15 and 17 Salisbury Road, these properties do not form part of the appeal terrace, and do not share the same characteristics and features as the appeal terrace. As such, these examples are not directly comparable to the appeal site, and the full details of these properties are not before me for consideration. In any case I have assessed the development on its own merits. Therefore, the existence of other roof extensions in the locality does not justify the harm I have identified nor does the lack of objection from neighbours or the benefits of providing additional living space.
13. Therefore, the development has a harmful impact upon the character and appearance of the host building and surrounding area. The development is therefore contrary to Policies DM4 and DM29 of the London Borough of Waltham Forest Development Management Policies Local Plan, 2013, Policy CS15 of the London Borough of Waltham Forest Core Strategy, 2012, and Policies 7.4 and 7.6 the London Plan, 2016. Amongst other things, these state that the Council will expect a high standard of urban and architectural design and expect all development to relate to the original 'host' building, and respect character of the area.
14. The development does not meet the aims of part 12 of the National Planning Policy Framework, 2019 (Framework), which requires development to be sympathetic to local character.

Conclusion on Ground (a) and the Deemed Planning Application

15. For the reasons given and with regard to all other matters raised, I conclude that the appeal on ground (a) should fail and the deemed planning application should be refused.

Conclusion

16. 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.

R Satheesan INSPECTOR