
Appeal Decision

Site visit made on 9 March 2021

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2021

Appeal Ref: APP/U5930/C/20/3256371
230 Hoe Street, Walthamstow E17 3AY

- 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 Mohamed Iallmohamud against an enforcement notice issued by the Council of the London Borough of Waltham Forest.
 - The enforcement notice was issued on 26 June 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of first and second floor rear extensions and rear external staircase on the building on the Land.
 - The requirements of the notice are:
 1. Demolish and remove the first floor rear extension from the building on the Land;
 2. Demolished and remove the second floor rear extension and the external staircase giving access to the second floor extension from the building on the Land;
 3. Remove all associated fixtures, fittings associated materials and debris resulting from Steps 1 & 2 from the Land.
 - The period for compliance with the requirements is 8 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) 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. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. During the course of this appeal, the London Plan, 2016, and policies contained within it, has been replaced with the London Plan 2021, which was adopted on 2 March 2021. Therefore, this must now be given full weight in the decision making process. The Council has provided copies of the relevant recently adopted London Plan, 2021 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 I have therefore not assessed the development against the policies of the superseded London Plan 2016.

Ground (a) appeal and the Deemed Planning Application

Main Issues

3. The main issues are the effect of the development on:

- the character and appearance of the host building and the area; and
- the living conditions for the occupiers of No 228 Hoe Street, with particular regard to light, outlook, and privacy.

Reasons

Character and appearance

4. The appeal site is a three storey mid terraced Victorian building situated in a terrace of similar properties characterised by commercial uses on ground floor level with ancillary storage/staff areas and residential flats on the upper floors. The appellant states that the appeal building is in use as a restaurant at ground floor, with storage and staff accommodation above. The properties in the terrace contain original two storey back additions, and access to the rear of the buildings is provided by Tower Mews.
5. The appeal building had been previously added to with a single storey rear extension and an external staircase providing access to the first floor level. In addition, the appeal site which contains plant, extract ducts and AC units at the rear above ground floor level, visible from Tower Mews.
6. The unauthorised works, the subject of this enforcement notice, comprises a first floor side infill extension and second floor extension on top of the back addition together with an external access providing new access at second floor level.
7. The side infill extension at first floor level together with the rear extension on top of the back addition, extends the original back addition considerably, such that it is no longer a sub-ordinate feature of the original Victorian building. Furthermore, the extension at second floor level consists of an awkward stepped design where it adjoins the main building close to the boundary with No 232 Hoe Street. In addition, the second floor extension comprises poor quality materials consisting of felt and dark panels, which lacks any architectural merit and is at odds with the prevailing traditional brick material seen elsewhere on the terrace. In this regard, the design, bulk, and height of the extensions introduces an overly dominant and visually discordant feature, which fails to harmonise with its surroundings.
8. Furthermore, the external staircase at second floor level, given its additional height and prominence, forms a tall and obtrusive feature which results in additional visual clutter, when combined with the existing extract flues, and plant and staircases at the rear of the building. The extensions and external staircase at high level are visible in public views from Tower Mews. In this respect, the extensions and external staircase results in an uncomfortable relationship with the host building and the adjacent properties, with consequent harm to the character and appearance of the surrounding area.
9. I appreciate the appellant's frustration that there are a small number of other extensions to back addition in the terrace and refers to planning permission granted at No 250 Tower Mews for a brick built extension. However, I noted

that that extension had a more simplified and uniform design, constructed of brick, whereas the extension at the appeal site, has been constructed from a mix of materials and has a stepped design where it is attached to the main building. The appeal site also contains a prominent external staircase at second floor level. As such, the site circumstances at the appeal site differ from No. 250 Tower Mews, and in any event, I have assessed this case on its own merits. Furthermore, I do not consider that this harm could be overcome by an alternative elevational treatment/material, since it is the overall poor design and bulk of the extensions and staircase, which are particularly discordant.

10. Therefore, in relation to the first main issue, the development has a harmful effect upon the character and appearance of the host building and the area. The development is therefore contrary to Policies DM4 and DM29 of the London Borough of Waltham Forest Development Management Policies Local Plan, 2013 (Local Plan), Policy CS15 of the London Borough of Waltham Forest Core Strategy, 2012 (Core Strategy). 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.
11. 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 and history.

The living conditions for the occupiers of No 228 Hoe Street:

Light and Outlook

12. The first floor rear extension infills the area to the side of the first floor back addition adjacent to No 228, which has also previously extended to the side and rear of their back addition at ground floor level. The Council have raised an objection that the first floor infill extension results in harm to the living conditions of No 228 with regards to loss of light and outlook. However, as this element of the extension is built at the same level as the affected windows and owing to the single storey height and flat roof design of the extension, the first floor extension does not have a harmful effect on the neighbouring occupiers of No 228 with regards to outlook and daylight. Furthermore, I also observed that the first floor level of No 228 appears to be in use ancillary to the commercial use of the building at ground floor level.
13. Similarly, the second floor extension is positioned away from the boundary with No 228, which ensures that there is no loss of light or outlook to occupiers of this neighbouring property.

Privacy

14. With regards to overlooking and privacy, I acknowledge that the new windows and door within the second floor extension are obscured glazed. Nevertheless, the elevated position of the terrace above the flat roof of the first floor rear extension coupled with the lack of sufficient screening results in intrusive overlooking into the neighbouring windows at second floor level of No 228, and therefore results in loss of privacy for these neighbouring occupiers.

Conclusion on living conditions for occupiers of No 228

15. Therefore, whilst I find no harm in relation to loss of light and outlook to occupiers of No 228, I consider that the second floor terrace area fails to provide acceptable living conditions for occupiers of No 228, with regards to privacy. Accordingly, the terrace area accessed from the new external staircase at second floor level is contrary to Policies DM4, DM29 and DM32 of the Local Plan. Amongst other things, these require that all development protect the occupiers of the properties nearby from suffering any excessive loss of residential amenity.
16. Furthermore, the development is contrary to paragraph 127 of the Framework which states that development should ensure high standards of amenity are created for future as well as existing users.

Other matters

17. The Council have also referred to Policy DM30 of the Local Plan. However, this refers to Inclusive Design, which does not appear to be relevant to the case advanced by the Council.
18. Whilst not specifically referred to within the enforcement notice, the Council's appeal statement also raises additional concerns relating to the effect of the development on the living conditions of the occupiers of the neighbouring property at No 232 Hoe Street with regard to outlook. However, the nearest potentially affected window does not appear to serve a habitable room and no objections have been raised by occupiers of this adjacent property. As such, based on the limited evidence before me, I do not consider that the development is harmful to the living conditions of the occupiers of 232 Hoe Street with regards to outlook.

Conclusion

19. 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