
Appeal Decision

Site visit made on 23 March 2021

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 April 2021

Appeal Ref: APP/U5930/20/3253219

75 Forest Road, London E17 6HF

- 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 Mrs Nandarohini Paramanantham against an enforcement notice issued by the Council of the London Borough of Waltham Forest.
 - The enforcement notice was issued on 30 April 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission, the construction of an L-shaped dormer roof extension to the rear of the Land.
 - The requirements of the notice are:
 - 1) Remove the L-shaped dormer roof extension in its entirety and reinstate the original roof of the Land to its former condition before the L-shaped dormer roof extension was constructed; and,
 - 2) Remove all resulting materials, rubble and general detritus from the Land following compliance with step 1) 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) 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 I have therefore not assessed the development against the policies of the superseded London Plan 2016.
3. I have also dealt with another appeal (Ref: APP/U5930/20/3253218) on a neighbouring site. That appeal is the subject of a separate decision.

Ground (a) appeal and the Deemed Planning Application

Main Issue

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

Reasons

5. The appeal site is a two storey mid terraced building (excluding the unauthorised L-shaped dormer the subject of this appeal) situated in a terrace of similar properties characterised by commercial uses on ground floor level with residential flats on the upper floors. Further along Forest Road, and to the rear of the site on Clifton Avenue, terraces of residential buildings of similar scale and appearance exist, many of which have two storey original back additions. As such, the area exhibits a degree of consistency in terms of the pattern of development, albeit the wider area features a variety of buildings and uses.
6. The appeal relates to the erection of an L-shaped dormer roof extension covering the rear roof slopes of the main building and extending over most of the original back addition, to provide an additional storey of accommodation to the existing flat.
7. My attention has been drawn to a recent appeal decision for the same development¹. In that case, the Inspector considered that the L-shaped dormer added significant bulk to the rear of the existing building and its roofscape which has caused the rear elevation to be dominated by the large additions. Despite the use of matching materials, given that the dormer roof extension has only a minimal inset from the edges of the original roofs, I agree with the previous Inspector's findings and consider that the L-shaped dormer roof extension result in a 'top heavy' and an overly dominant addition to the roof of this building.
8. Although dormer extension would not be visible from the street, it would be clearly visible from a number of neighbouring properties and their gardens. In this respect the development results in harm to the character and appearance of the building and the area generally.
9. I appreciate that that a number of rear roof extensions have been built in the surrounding area and the appellant points out that permission has been granted for a number of these. However, whilst I have some information, I do not have the full details or circumstances as to how these came to be. I also note that the Council have advised that a number of these extensions relate to dwelling houses and therefore they have been constructed under permitted development rights. Moreover, and in any event, I must determine the appeal before me on its own merits and with full regard to the relevant local and national planning policy. As such, 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.
10. The appellant refers to a recent prior approval application which sought to convert the existing building from a Class A1 use to a Class C3 use and

¹ Appeal Decision APP/U5930/W/19/3237131 for the dormer to the main rear roof and second floor extension to rear outrigger and two self-contained flats dismissed on 17 December 2019.

considers that once approved, the building would benefit from permitted development rights. However, the Council have confirmed that this prior approval application has been withdrawn, and in any event, permitted development rights cannot be applied retrospectively.

11. Therefore, 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, Policy CS15 of the London Borough of Waltham Forest Core Strategy, 2012, and Policy D3 of the London Plan (2021). 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.
12. 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.

Overall conclusion and planning balance

13. I have considerable sympathy with the appellant's personal circumstances, outlined in her submissions and can fully appreciate why she would wish to retain the extension. Nevertheless, the development results in harm to the character and appearance of the building and area generally. The development is contrary to the development plan and the Framework and no material considerations indicate that planning permission should be granted. The appeal on ground (a) must therefore fail and the application for permission deemed to have been made will be refused.
14. 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