The Planning Inspectorate

Appeal Decision

Site visit made on 13 April 2021

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2021

Appeal Ref: APP/G5750/C/20/3260647
35 Sixth Avenue, Manor Park, London E12 5PP

- 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 Abdul Khan against an enforcement notice issued by the Council of the London Borough of Newham.
- The enforcement notice was issued on 8 September 2020.
- The breach of planning control as alleged in the notice is: Without planning permission the erection of a porch.
- The requirements of the notice are:
  1. Demolish the porch (as shown edged in yellow on the photograph attached at Appendix 1).
  2. On completion of step 1 above, remove all materials and debris from the site.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) 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.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with a correction in the terms set out below in the Formal Decision.

Preliminary Matters

1. The appellant states that the roof above the bay window is part of the original house, the height and size and structure of which has not been altered when building the porch. However, as drafted, requirement 1 of the notice indicates that the roof above the bay window should be demolished. Appendix 3, provided by the Council, supports the appellant's view and so I have corrected the notice using my powers under section 176(1)(a) of the 1990 Act, such that the notice attacks only the porch and not the roof above the bay window.

2. Since the notice was issued a new version of the London Plan has been published and so the London Plan policies published in 2016, referred to in the notice, have been superseded by those in the London Plan 2021. Both main parties were given an opportunity to comment on any relevant implications for the appeal and any comments received have been taken into account in my reasoning.

Reasons

The ground (c) appeal

3. The Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) grants planning permission for specified forms of

development. The appellant states that adding a porch to any external door of the house is considered to be permitted development.

4. But the permitted development right to erect or construct a porch outside any external door of a dwellinghouse, under Schedule 2, Part 1, Class D of the Order, is subject to limitations. Paragraph D.1(c) of Class D states that development is not permitted by Class D if any part of the structure would be more than 3 metres above ground level.

5. Based on the appellant's own evidence, part of the porch which has been constructed is more than 3 metres above ground level. So the porch is not permitted development. There is no evidence that planning permission exists for the porch and so the ground (c) appeal fails.

The ground (a) appeal

6. The main issue in the ground (a) appeal is the effect of the appeal development on the character and appearance of the area.

7. The area is predominantly characterised by 2 storey terraced houses. The appeal site contains one such house. It forms part of a group of 6 houses at Nos 29-39 which are set back from the road and other houses on this side of the street. This group has a uniform appearance, as evidenced by the composition of matching ground floor bay windows, brick external facing materials, stucco mouldings and window dressings. None of the other houses in this group has a porch.

8. In this context, the porch which has been constructed on the appeal property is entirely incongruous. It is tall, wide and deep, making it a dominant feature within the street scene. It completely engulfs one side of the bay window of the house, including its decorative mouldings and those which were seen around the front door. The wood panelling used as a facing material for the porch further exacerbates its incongruity. The distance of the porch from the pavement makes no difference to my assessment above.

9. My attention has been drawn to other porches in the area. But no details have been provided of how each of these came to exist. So I do not know when each of these were constructed, or under what circumstances or if they are lawful. Moreover, some of these are far away from the appeal site and so are not seen within the same context. Taking all these points into consideration I give the other porches referred to limited weight in my decision.

10. I have also been referred to a development of new houses at No 24-34 Sixth Avenue. But this is not a basis for granting planning permission for a porch on the appeal property in light of my findings above.

11. I conclude the appeal development harms the character and appearance of the area and does not comply with Policies D3 or D4 of the London Plan 2021, Policies SP1, SP3, SP8 or H1 of the London Borough of Newham Local Plan (the Local Plan), the Newham Altering and Extending Your Home Supplementary Planning Document 2018 or the design policies of the National Planning Policy Framework in this regard.

12. The Council has also referred to Policies D1 and D8 of the London Plan 2021 and Policy S6 of the Local Plan. But it has not been explained how these are

directly relevant to the appeal development or the main issue in this appeal. So in my view they neither weigh in favour of or against the appeal development.

13. The appellant has suggested alterations to the appeal development. But these are not before me in this appeal and it is open to the appellant to seek planning permission from the Council for an alternative scheme, if appropriate, and I am satisfied the period for compliance provides sufficient time to enable this.

14. The appellant states that no objections to the appeal development have been received. But this makes no difference to my overall conclusion in light of the harm identified above.

15. I conclude the appeal on ground (a) fails.

Conclusion

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

Formal Decision

17. It is directed that the enforcement notice is corrected by the deletion of the phrase "edged in yellow" from requirement 1 of the notice. Subject to this correction, the appeal is dismissed, 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.

L Perkins

INSPECTOR