
Appeal Decision

Site visit made on 1 September 2021

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 9th September 2021

Appeal Ref: APP/A5270/C/21/3271267

129A Broadway, West Ealing, London W13 9BE

- 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 Medhi Rezaee against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The enforcement notice was issued on 29 January 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission, the construction of a front extension.
 - The requirements of the notice are
 1. Demolish the front extension in its entirety and
 2. Remove all resultant debris associated with the compliance of the above step.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the ground 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.
-

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.

Procedural Matters

2. The Revised National Planning Policy Framework was published on the 20 July 2021 and the parties were asked to comment upon the implications of any revisions but chose not to do so.
3. As the new London Plan (the London Plan 2020) was adopted on the 2 March 2021, after the issue of the notice, Policies 7.4 and 7.6 of the London Plan 2016 referred to in the notice have now been superseded. Details of replacement policies were however provided in the Council's evidence and have been referred to in this Decision.
4. As the notice relates only to the extension itself and not any use, an unaccompanied site visit was undertaken to assess the building's appearance and the surrounding location.

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

Main Issue

5. The effect of the development on the character and appearance of the host building and the surrounding area.

Reasons

6. The appeal under ground (a) includes the DPA arising from the breach of planning control which is the construction of a front extension. At the time of the service of the notice, the extension was not being used but the Council indicates that use is now taking place as a shisha lounge. However, the use of the extension falls outside the scope of this notice and is not part of the determination of the ground (a) appeal.
7. Broadway itself is a busy main thoroughfare with a mix of retail and commercial uses at ground level. Although the address of the appeal site is 129A Broadway, as the development is to the rear of 129 Broadway which is on a corner, the development fronts onto Coldershaw Road. Beyond the development heading away from Broadway, Coldershaw Road is largely residential and occupiers are likely to pass the development to access the shops. Opposite the development, there is a Kwik fit tyre and car repair business.
8. Photographs submitted by the Council show that prior to the development taking place, 129A Broadway consisted of a car accessories shop set back from the pavement with an external staircase to the side for access to the first floor flat and a single storey brick building to the other side which wraps around onto Canberra Road which is largely in residential use. The layout of the buildings meant that there was a rectangular area of forecourt with no built development to the front of the shop, between the external staircase and the single storey element to the other side. The extension, which is the subject of the notice, has now been built in this gap.
9. The development consists of a rectangular timber structure made up of black painted boards with polycarbonate windows above with thin wooden frames and a roof made of corrugated sheets. Access is at the front through a metal railings type gate commonly found in gardens with polycarbonate backing. Plastic tarpaulin sheets are designed to roll down over the windows and the side of the structure nearest to Broadway is covered in tarpaulin. At the time of my visit, the word "Oud" was above the entrance gate and was also in larger lettering on the wooden panels. The overall size of the development given its height, depth and width and slightly sloped roof means that the development, combined with the dark materials used for the construction, dominates the part of the host building that remains visible. The host building is made of brick with residential style windows visible at first floor level and the development does not complement the host building.
10. The materials used for the development namely plastic sheeting, wooden panels and corrugated roofing are more usually associated with a temporary structure. The development is in a prominent location just off Broadway and is of a poor quality and design as a permanent building. The appellant considers that the surrounding area does not benefit from any significant established characteristics due to the variety of uses in the area. Nevertheless, the uses

that do exist largely have common characteristics such as the use of brick and glass rather than the materials used in the development.

11. The appellant sees similarities between the development and a front extension permitted in 2015 apart from differing materials. However, it is the use of inappropriate materials which results in the Council describing the development as "a ramshackle and temporary structure." I see no similarities between the development and what was previously approved but not constructed. Even if the Council accepts the principle of a building in this location, that does mean that this particular development is acceptable.
12. The appellant has referred to the development as being incomplete and suggests that a condition be imposed requiring further details of materials to be submitted. Whilst no materials were suggested initially, the appellant in his final comments suggests that the building be finished in brick with a flat roof although no further details are provided. However, I share the Council's view that the issues with the development's appearance particularly the current use of materials are too fundamental to be resolved by condition. In essence, the appellant is referring to a new brick building following demolition of the existing one which goes beyond the scope of the DPA.
13. The combination of the materials, size, and design of the development in a prominent location means that the development is out of keeping and incongruous in relation to both the host building and the surrounding area. I do therefore find that the development does adversely affect the character and appearance of the host building and the surrounding area.
14. The development is therefore contrary to Policy D3 (D12) of the London Plan 2020 which amongst other things refers to development being of high quality with robust, attractive materials which weather and mature well. It would also be contrary to Policy 7.4 of the Ealing Adopted Development Management DPD (June 2013)(the DPD) which, amongst other things, states that development in existing areas should complement their materials and Policy D3(1) of the London Plan which refers to responding positively to the existing street scene. It would also be contrary to Policy 7.B of the DPD and Policy GG1 of the London Plan 2020 which collectively refer to development being complementary to, and enhancing existing areas and neighbourhoods.

Conclusion

15. 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 deemed application.

E. Griffin

INSPECTOR