
Appeal Decision

Site visit made on 7 September 2021

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2021

Appeal Ref: APP/E5900/C/20/3265216
330 Burdett Road, London E14 7DL

- 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 Ziaul Haque against an enforcement notice issued by the Council of the London Borough of Tower Hamlets.
 - The enforcement notice was issued on 17 November 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey rear extension, shown in the approximate location outlined in blue on the attached plan, to the property shown in the approximate location outlined in red on the attached plan.
 - The requirements of the notice are:
 1. Remove the unauthorised single storey rear extension, shown in the approximate location outlined in blue on the attached plan and as shown within Fig 1. of the appendix attached to this notice.
 2. Remove all resultant materials from the land.
 - The period for compliance with the requirements is 1 month.
 - 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.

Procedural Matters

2. Further revisions have been made to the National Planning Policy Framework during the course of my consideration of the appeal and a revised version was published in July 2021 (the Framework). I have invited the main parties to comment on the Framework and have taken account of any responses from them in my determination of the appeal.

Ground (a) appeal and the Deemed Planning Application

Main Issue

3. The main issue is whether the unauthorised development preserves or enhances the character or appearance of the St Anne's Church Conservation Area (CA).

Reasons

4. The appeal site relates to the ground floor drycleaners within a three-storey mid terrace property, and forms part of a terrace of similar traditional properties, which comprise commercial units on the ground floor with residential flats above. The site is within the CA.
5. With regards to the effect on designated heritage assets, Section 72(1) of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
6. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 200 of the Framework states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
7. The St Anne's Church Conservation Area Character Appraisals and Management Guidelines, 2007 (CAMG) states that the prevailing character of the St Anne's Church Conservation Area is defined by the mixed uses of principal public buildings of Limehouse amongst a more recent residential townscape. The CA is centred around the prominent Grade I listed St Anne's Church, which has formed a landmark in this part of the Borough since its construction in the early C18. Its prominence has been secured by a significant group of listed buildings and respectful low scale and urban character which surrounds the historic church. The CAMG also states that CA is an area of particular special architectural and historic interest, illustrated by its rich history and significant architecture dating from the C18.
8. Whilst other properties in the terrace have extended across the full length of their rear yards, the current unauthorised development comprises poor quality materials consisting of a metal mesh fence and timber posts supporting a felt clad timber roof. I also observed during my site visit that new unfinished blockwork has also been installed along the boundary of the extension, which is also of a poor finish and lacks any architectural merit. In these respect, the unauthorised development results in harm to the character and appearance of the host building and the CA generally.
9. I appreciate that there are no public views of the extension from the street. Nevertheless, it would be clearly visible from a number of neighbouring properties. Whilst reasonably localised in its extent, the effect of the development diminishes unacceptably the character and appearance of the host building with consequent harm to the character and appearance of the CA.
10. In the terms of the Framework and paragraph 202, the harm that the development causes to the significance of the designated heritage asset, that is the CA, would amount to less than substantial harm. Accordingly, this should be weighed against the public benefits of the development. The appellant states that they erected the extension as the area previously attracted anti-

social behaviour issues with children smoking, drinking, and throwing litter into this part of the rear yard, and that this area also attracted vandalism. However, the benefits of the development in these respects are insufficient, in my view, to outweigh the harm I have identified to the CA, and to which I afford considerable importance and weight. Furthermore, there are also alternative design options which could be explored to address these issues without causing harm to the CA.

11. I therefore conclude that the unauthorised works result in a visually discordant and incongruous addition, which is harmful to the character and appearance of the CA, as a whole. As such, it fails to preserve or enhance the character or appearance of the CA, contrary to policies S.DH1 and S.DH3 of the Tower Hamlets Local Plan 2031 (2020). Amongst other things these state that development must use high quality design and finishes to ensure buildings are robust, efficient, and fit for life of the development, and proposals must preserve, or where appropriate enhance the boroughs designated and non-designated heritage assets in a manner appropriate to their significance.
12. It would also conflict with the relevant requirement of the Framework which seeks to conserve and enhance the historic environment. Finally, it would not preserve or enhance the character or appearance of the conservation area as required by Section 72(1) of the Act. This carries considerable weight and importance to my decision.

Other matters

13. I have considered the effect of the development on the settings of nearby Grade II listed buildings at Nos 815, 817, 819 and 821 Commercial Road. However, in light of the separation distances from these buildings, I find no harm in these respects.

Conclusion

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