
Appeal Decision

Site visit made on 28 September 2021

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2021

Appeal Ref: APP/A5270/C/21/3269899

129 Somerset Road, Southall, Middlesex UB1 2UE

- 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 Patrick Hughes against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The enforcement notice was issued on 11 January 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a first-floor rear extension and decking and balustrades on the roof of the single storey rear extension to facilitate the creation of a roof terrace.
 - The requirements of the notice are:
 - 1. Demolish the first-floor rear extension in its entirety;
 - 2. Remove the decking and balustrades from the roof of the single storey rear extension; and
 - 3. Remove all resultant debris associated with the compliance of the above steps.
 - The period for compliance with the requirements is 6 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.

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.
3. During the course of this appeal, the London Plan, 2016, and policies contained within it, has been replaced with the London Plan 2021 (London Plan), which was adopted on 2 March 2021. This must now be given full weight in the decision making process. Both parties have been given the opportunity to comment on the new London Plan, and so have not been prejudiced. I have therefore not assessed the development against the policies of the superseded London Plan 2016.

Main Issues

4. The main issues are:

- The effect of the first floor extension and roof terrace on the character and appearance of the host building and the area;
- The effect of the first floor rear extension on the living conditions for the occupiers of 131 Somerset Road, with particular regard to outlook; and
- The effect of the roof terrace on the occupiers of Nos 127 and 131 Somerset Road, with particular regard to privacy.

Reasons

Character and appearance

5. The appeal site is in a residential area characterised predominantly by two storey residential properties of a similar style to the appeal property. The appeal site is a mid terraced property which has been previously added to with a single storey rear extension and full width box dormer roof extension. There is also a single storey outbuilding in the rear garden.
6. The unauthorised works, the subject of this enforcement notice, include the erection of a first floor rear extension, which together with the installation of a new door (from the first floor rear extension), decking and metal/timber balustrade on the flat roof of the ground floor rear extension facilitate a new roof terrace at first floor level.
7. Most properties in the appeal terrace (Nos 127-137 Somerset Road) have single storey rear extensions, which are subservient to the original dwellings. However, both the first floor rear extension and the roof terrace are not characteristic features of the appeal terrace. In this respect, the first floor extension, in combination with the single storey rear extension and the full width box dormer extends the building considerably, such that the rear additions are no longer a sub-ordinate to the original building. Nor are they in keeping with the existing character of the area. In addition, the slate clad 'box' design of the first floor rear extension is at odds with the prevailing traditional brick/render materials seen elsewhere in the area. Furthermore, the metal balustrade and timber posts on top of the ground floor extension, is of a poor finish, and lacks any architectural merit. In this regard, the design, bulk, and height of the first floor rear extension and roof terrace introduces an overly dominant and visually discordant feature, which fails to harmonise with the host building and its surroundings.
8. I appreciate that there are a small number of other first floor extensions in the wider area. However, I do not have full details of those cases and do not know the circumstances which led to those developments. I also note that those other extensions appear to be constructed from brick or render and comprise a different design with pitched roofs made from red tiles. In contrast, the appeal development, is clad in a dark grey/black slate material and also contains a door, decking and balustrading at first floor level facilitating the creation of a roof terrace. As such, those other developments are not directly comparable to the appeal development before me. In any event, I have assessed the appeal development on its own merits.

9. 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 Policy D3 of the London Plan and Policies 7.4 and 7B of Ealing's Development Management Development Plan Document, 2013 (DPD). Amongst other things, these state that development should be of high quality, with architecture that pays attention to detail; complement their.... c) scale d) materials e) detailing; and must achieve a high standard of amenity for users and for adjacent uses by ensuring external treatments, fittings and materials must complement the building and context and must not impair the visual amenity of surrounding uses.
10. Finally, the development does not meet the aims of part 12 of the Framework, which requires development to be sympathetic to local character and history.

Living conditions for the occupiers of 131 Somerset Road – outlook

11. Prior to the erection of the first floor rear extension, occupiers of No 131 would have had a relatively open outlook across the rear gardens of Somerset Road. In contrast, the scale and size of the first floor rear extension, together with the dark coloured grey/black slate finish, results in a visually intrusive and unneighbourly form of development, built along the boundary with the neighbouring property at No 131. This results in harm to the living conditions for the occupiers of this neighbouring property, with regards to outlook.
12. Therefore, the first floor rear extension fails to provide acceptable living conditions for occupiers of No 131, with regards to outlook. Accordingly, the development is contrary to Policy D3 of the London Plan, and Policy 7B of the DPD. Amongst other things, these require that development must achieve a high standard of amenity for users and for adjacent users; and deliver appropriate outlook.

Living conditions for the occupiers of Nos 127 and 131 Somerset Road – privacy

13. The door from the first floor rear extension providing access onto the flat roof of the ground floor rear extension, together with the installation of decking and balustrades facilitate the creation of a roof terrace at first floor level. I acknowledge that the existing gardens at Nos 127 and 131 would have been overlooked already by the existing windows in the rear elevation of properties on Somerset Road. However, the use of the flat roof as a roof terrace coupled with the lack of sufficient screening results in additional intrusive overlooking into the neighbouring windows at first floor level and the rear gardens of Nos 127 and 131. This results in loss of privacy for these neighbouring occupiers.
14. I therefore conclude that the roof terrace area fails to provide acceptable living conditions for occupiers of Nos 127 and 131, with regards to privacy. Accordingly, the development is contrary to Policy D3 of the London Plan and Policy 7B of the DPD. Amongst other things, these require that development must achieve a high standard of amenity for users and for adjacent users by ensuring good levels of privacy.

Other Matters

15. The appellant states that there are young twins and people with disabilities living at this address, and since the property is a maisonette the terrace is necessary as a fire exit. However, no details have been provided to demonstrate that the lawful use of the property is a maisonette, and the

Council advise that the property is a single family dwelling occupied by a related family. I also witnessed that property appeared to be laid out and occupied as a single dwelling house, and therefore the existing rear garden would provide sufficient outdoor space for the current occupiers. Furthermore, no substantive evidence has been submitted to demonstrate that the roof terrace is required for a fire exit. Indeed, in an emergency, access to the flat roof could be achieved by using existing windows at the rear of the property.

Overall conclusion and planning balance

16. I have found conflict with the development plan with regard to harm to the character and appearance of the host building and area, and harm to the living conditions of neighbouring occupiers of Nos 127 and 131. 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.
17. 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