

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/21/3274381

69 Fraser Road, Perivale, Middlesex UB6 7AL

- 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 Indrarajah Raveendrarajah against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The enforcement notice was issued on 18 March 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a canopy extension to the rear of an existing single storey rear extension.
 - The requirements of the notice are:
 1. Remove the canopy 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 3 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.

Ground (a) appeal and the Deemed Planning Application

Main Issues

3. The main issues are the effect of the unauthorised development on:
 - the character and appearance of the host building and the area; and
 - the living conditions for the occupiers of Nos 67 and 71 Fraser Road, with particular regard to outlook.

Reasons

Character and appearance

4. The appeal site is in a residential area characterised predominantly by two storey residential properties. The appeal property has been previously added to with a single storey rear extension and a single storey outbuilding in the rear garden. More recently, a canopy extension has been constructed, to the rear of the single storey rear extension, which extends the full width of the dwelling.
5. The canopy extension when combined with the existing single storey rear extension extends the building considerably and occupies a disproportionate amount of the rear garden. Although not visually prominent the unauthorised development has substantially eroded the extent of undeveloped space associated with this property. Furthermore, the extension comprises poor quality materials consisting of a timber frame and Perspex panel roof, which lacks any architectural merit and is at odds with the more traditional materials found in the area. Therefore, despite the structure being largely open on three sides, and its position away from any public views, the effect of the development diminishes unacceptably the character and appearance of the host building and the area generally.
6. Whilst there are a number of properties within the area, which benefit from rear extensions and conservatories, none appear to extend to the same depth as the appeal development before me. As such the existence of these other extensions is not directly comparable to the current unauthorised development and does not justify the harm identified above. In any event, I have assessed the appeal development on its own merits.
7. 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, 2021, 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.
8. 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 Nos 67 and 71 Fraser Road – outlook

9. I acknowledge that the timber framed canopy extension in combination with the existing single storey rear extension, extends the depth of the appeal property considerably. However, the existing canopy structure is largely open on both sides and to the rear. Furthermore, the Perspex panel roofing also permits light to pass through. I also note that the canopy extension is set away from the boundary with No 71 Fraser Road. As such, I am satisfied that its open design and single storey height, does not result in any demonstrable loss of outlook to neighbouring occupiers of Nos 67 and 71.
10. Therefore, the unauthorised development provides acceptable living conditions for occupiers of Nos 67 and 71 Fraser Road, with regards to outlook, in

accordance with Policy D3 of the London Plan, 2021, 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 uses; and deliver appropriate outlook.

Other Matters

11. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. I have found conflict with the development plan with regard to character and appearance of the host building and area. Lack of harm in respect of living conditions to neighbouring occupiers does not justify the harm I have identified above under the first main issue. Therefore, there are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.

Conclusion

12. 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