



Appeal Decision

Site visit made on 3 December 2021

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 20 December 2021

Appeal Ref: APP/U5930/C/21/3280815

107 Maynard Road, First Floor Flat, Walthamstow

- 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 Dr Sayeda Abu-Amero against an enforcement notice issued by the Council of the London Borough of Waltham Forest.
 - The enforcement notice, numbered 210157, was issued on 13 July 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of an L shaped roof extension.
 - The requirements of the notice are 1. Demolish and remove the unauthorised roof extension from the Land and make good any repairs; 2.Remove from the property all associated debris resulting from compliance with 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. The application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of an L-shaped roof extension at 107 Maynard Road, First Floor Flat, Walthamstow as shown on the plan attached to the notice.

Ground (a) and the deemed application for planning permission

Main issues

2. The main issue in the ground (a) appeal is the effect of the development on the character and appearance of the host buildings and area; and on the living conditions of the occupiers of No.109 Maynard Road.
3. The application for planning permission deemed to have been made is for the L-shaped roof extension as constructed when the notice was issued.
4. The host property is an upstairs maisonette flat in a two storey building which is part of a joined pair of properties originally built as 2 dwellinghouses on a residential street. The development is an L shape extension on the rear of the property. It is used as two bedrooms, one of which has a bathroom and rear juliet balcony. The external flank walls of the dormers are clad in dark

grey/black tiles, and the window and door frames are made from dark grey UPVC. The rear dormer extension projects across the full width and depth of the rear roof and a large part of the outrigger as well. There is a fleeting view of the dormer on the rear roof slope through the narrow gap between No.107 and No.109 from the front pavement and road but there is no harm caused to the street scene. The rear boundary of the garden of the downstairs flat, No.107A, is shared with a primary school and nursery which have extremely limited views of the development, although it will be visible from the back gardens of Nos. 105, 107A. and 109.

5. The adjoining house at No.105 already has a rear L-shaped extension which is clad in red tiles to match its main roof. This existing roof extension at No.105 provides a balancing out effect to the development as the scale and massing of both properties on the linked pair are similar in terms of height and volume. The colour of the cladding tiles are different, but this is to match the existing roof tiles still seen on the front of the properties, i.e. red on No.105 and black on No.107.
6. Whilst the Town and Country Planning (General Permitted Development) (England) Order 2015 ('the GPDO') does not apply to this development as the original dwellinghouse was converted into 2 flats many years ago, it is within a residential area of properties that predominantly do benefit from permitted development rights within the curtilage of a dwellinghouse, and where there has clearly been a lot of extension works (either under permitted rights or otherwise). For the reasons set out above (and in particular the extremely limited views of the development from any public space), the development does not appear incongruous in this specific location or on this property, and is not causing harm to the character and appearance of the area or host building.
7. The Council was also concerned about the effect of the development on the garden of No.109 stating that the dominant design would have an overbearing impact and create a sense of enclosure. The development is evident from the rear of No.109 and will appear larger and higher. The original rear windows at the first floor of No.107 already provided views of the back garden of No.109. The new windows on the roof extension do not therefore provide any additional overlooking. The additional bulk of the building created by the development is not significant when considered in light of the pre-existing built format of Nos.105 and 107. The roof extension at No.105 is similar in scale, massing and height when considered from No.109, albeit that the development is closer to the shared boundary. The sense of enclosure has increased to some extent, although this is limited as the original host building of Nos.107 and 107A is situated very close to the shared boundary and extends significantly further back into the plot than No.109. It has already been extended further by the single-storey ground floor extension at No.107A which would be clearly evident from the garden of No.109 as it is very close to, and higher than, the shared boundary. I therefore find that whilst there would be some harm caused by the development to the outlook from the back garden of No.109 it would be limited, and it would not cause an excessive loss of residential amenity to the occupiers.
8. I note that concerns were expressed by an interested party with regard to the loss of privacy and potential for overlooking from the development through the roof light of the ground floor extension at No.107A. I did not find this to be the case in my observations during the site visit.

9. I accept the appellant's argument that the development is in accordance with several development plan policies and that it has improved the living conditions of occupiers of the host property in terms of increased privacy and light, and additional space, and I attribute this moderate weight. The personal circumstances of the appellant and her family, including the need to live together for health reasons and her lifelong connections and ties with the local area in which house prices have become increasingly expensive, are also considerations to which I attribute some weight.

Other matters

10. The appellant accepts that the development took place intentionally without planning permission but states that part of the works were urgent due to the leaking roof and dangerous chimney stack. I have also taken into account that the appellant contacted the Council about a lawful development certificate within weeks of the initial works and she was not therefore seeking to retain the development as unauthorised or in a covert way.
11. Concerns were also raised about the potential for damage to be caused to the ground floor flat due to the load bearing needed for the development. However, I was not provided with substantive evidence regarding any such damage, and I also note that Building Control are aware of the development.

Conclusion

12. I do not find that the development caused harm in respect of the character and appearance of the host building or surrounding area. However, I do find that limited harm is caused to the outlook of the occupiers of No.109 which is in conflict with Development Management Policy DM32 (which is part of the development plan) and which, amongst other things, seeks to manage the impact of development on neighbouring occupiers (although I do not find that the development is in conflict with Policy DM4 as it does not cause an excessive loss of residential amenity to the occupiers of the properties nearby). The limited harm caused is outweighed by the benefits of the development in terms of the living conditions of the occupiers of the host property and also the specific personal circumstances of the appellant and her family.
13. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice.

Zoë Franks

INSPECTOR