
Appeal Decision

Site visit made on 7 December 2021

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 January 2022

Appeal Ref: APP/L5810/C/20/3263013
46C Friars Stile Road, London TW10 6NQ

- 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 Ms Martina Mohanty on behalf of Luca on the hill against an enforcement notice issued by the Council of the London Borough of Richmond-upon-Thames.
 - The enforcement notice was issued on 13 October 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission and within the past four years the unauthorised erection of a ground floor rear extension on the Land ("the Extension").
 - The requirements of the notice are:
 - 5.1 Remove the Extension from the Land; and
 - 5.2 Remove from the Land all surplus materials, rubble and debris arising from compliance with step 5.1 above.
 - The period for compliance with the requirements is two calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) (b) and (f) 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, as amended.
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Decision

1. It is directed that the enforcement notice be varied by deleting the word "two" in paragraph 6 and substituting it with "six". Subject to this variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal on ground (b)

2. The issue is whether as a matter of fact a ground floor rear extension has been erected on the Land. The burden of proof falls on the appellant to make out their case.
3. The appellant states that the Land previously had a shed on it which they had to remove as it contained asbestos. To secure the area and provide storage space for the café/delicatessen, a wooden roof was added to the existing garden fence/side panels. However, there does not appear to be any dispute that the operations undertaken have resulted in a ground floor rear extension to the premises.

4. I saw on my site visit that the appeal premises have been extended to the rear with a wooden structure on a concrete base. The extension provides additional storage space for the café.
5. In conclusion, a ground floor rear extension has been constructed as a matter of fact. The appeal on ground (b) fails.

Appeal on ground (a), deemed planning application

Main Issues

6. The main issues in this case are the effect on the:
 - character and appearance of the host property and St. Matthias Conservation Area; and
 - living conditions of neighbouring residents.

Reasons

Character and appearance

7. The appeal premises are situated on Friars Stile Road and within St. Matthias Conservation Area (CA) on Richmond Hill. From the evidence before me, and observations on my site visit, the significance of the CA as a heritage asset is derived from the high quality residential area centred around St. Matthias' Church. The area has a cohesive form of varied architectural styles which developed during the mid to late 19C. Friars Stile Road is a mix of residential and business uses and has an intimate village atmosphere. The appeal premise has been identified by the Council as a non-designated heritage asset. It has an attractive tiled shop front which projects at ground floor beyond the building's brick façade and feature gables.
8. The single storey extension has been constructed onto the rear of the property and has a shallow dual pitched roof. Whilst the depth of the extension is not insignificant, overall, by reason of its single storey form the extension is visually subordinate to the host property. However, the extension's materials of external construction are crude, and it has an unrefined appearance. The use of timber boards/cladding to the walls and felt roofing contrasts sharply with the quality of the fine brickwork and traditional building materials utilised in the original property. Consequently, the extension has a harmful effect on the building's character and appearance.
9. I recognise that the extension is on the rear of the property and thus not readily visible from Friars Stile Road. However, it is clearly visible from adjoining Foxton Mews, as well to private views from surrounding properties within the CA. Its materials of construction do not respond to the quality of the surrounding architecture and the extension is an incongruous addition which fails to preserve the special character and appearance of the CA.
10. I conclude that the extension has a harmful effect on the character and appearance of the host property and fails to preserve or enhance the character or appearance of the CA. In the language of the National Planning Policy Framework (the Framework), it would cause less than substantial harm to the significance of the heritage asset. This harm is not outweighed by any public benefits, including those derived from the café/delicatessen use. The extension is contrary to policies in the Framework which seek to conserve and enhance

the historic environment. In addition, there would be conflict with the design and heritage aims of Policies LP1, LP3 and LP4 of the London Borough of Richmond Upon Thames Local Plan, adopted 2018 (LP), which amongst other things, seek to ensure that materials and details of new development respect, contribute to and enhance the local environment and character. There is however no conflict with the Council's Supplementary Planning Document, House Extensions and External Alterations, 2015 as the host property in this case is not a dwellinghouse.

Living conditions

11. The unauthorised extension has been constructed at the rear of the premises with its flank walls close to the site's boundaries. Although it is visible to neighbouring residents, particularly from first floor windows, it does not have a harmful effect on the outlook from those windows. Its single storey form is not overbearing or enclosing, and the extension does not raise any issues of privacy.
12. For the reasons given above and taking into account the height and location of the extension and adjoining development, the development does not have a harmful effect on the outlook and living conditions of occupiers of neighbouring residents. There is no conflict with the development plan, and in particular with Policy LP8 of the LP which seeks to ensure that all new development protects the amenity and living conditions of occupiers of adjoining and neighbouring properties.

Other Matters

13. I appreciate the appellant has security concerns and recognise her need for additional storage space. However, those considerations do not outweigh the harm I have identified to the host property and CA. Furthermore, I am not persuaded that an extension constructed from wood is the only design solution available to provide security and the additional storage space required. I therefore give these considerations little weight.

Conclusion

14. Although I have found that there is no harm to the living conditions of neighbouring residents, I have found that the extension has a harmful effect on the character and appearance of the host property and fails to preserve or enhance the CA. Therefore, for the reasons set out above and taking into account all other matters raised, the appeal on ground (a) fails.

Appeal on ground (f)

15. The issue is whether the requirements are excessive to achieve the purpose(s) of the notice.
16. Section 173 of the Town and Country Planning Act 1990 (as amended) indicates that there are two purposes which the requirements of an enforcement notice can seek to address. The first is to remedy the breach of planning control that has occurred and the second to remedy any injury to amenity which has been caused by the breach. In this case the purpose of the notice is to remedy the breach.

17. The appellant has not suggested any lesser steps that could be taken to remedy the breach, and there are no planning conditions that could make the development acceptable. Therefore, there are no lesser steps that would achieve the statutory purpose behind the notice and the appeal on ground (f) fails.

Other Matters

18. The period of compliance with the notice is two calendar months. Whilst the appellant has not made an appeal on ground (g), I need to consider whether the period of compliance set out in the notice is reasonable. In this case, although I accept that two months is a reasonable period within which to remove the unauthorised structure, I am mindful that the appellant will need to find an alternative solution to her storage needs. It therefore seems to me that it would be reasonable to extend the time period for compliance to six months to allow the parties the opportunity to explore alternatives which would overcome the harm I have identified in respect of the appeal on ground (a).

Overall Conclusions

19. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Elizabeth Pleasant

INSPECTOR