



Appeal Decision

Site visit made on 19 October 2021

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 11 January 2022

Appeal Ref: APP/T5150/C/20/3264308

Land at 39 Ilex Road, London NW10 9NX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Ms Chopi Said against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice, numbered E/20/0474, was issued on 11 November 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a pergola/canopy extension to the front of the premises.
 - The requirements of the notice are to:
STEP 1 Remove the pergola/canopy extension to the front of the premises.
STEP 2 Remove all items and debris arising from that demolition and remove all materials associated with the unauthorised development from the premises.
 - The period for compliance with the requirements is 3 months after the notice takes effect.
 - The appeal is proceeding on the ground 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.
-

Summary Decision: The appeal is dismissed.

Preliminary Matters

1. Having noted the evidence provided by the appellant with regard to one of the occupiers of the appeal site, I advised the parties of the Public Sector Equality Duty contained in the Equality Act 2010 that falls upon me in determining this appeal. I sought the parties' views on this and have had regard to the comments received in reaching my decision.

Ground (a) and the deemed application for planning permission

Main Issue

2. The appeal on ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. I note the substantive reasons for issuing the enforcement notice and from these I have identified the main issue in this case as being the effect of the development on the character and appearance of the site and the area.

Reasons

Character and Appearance

3. The appeal site is located in a residential area characterised by rows of terraced properties. There is variation in the design of properties within the street;

some, for example, have a two storey projecting front gable, others have just a bay window at ground floor, and some have a fairly flat front elevation. Properties of a similar design are, however, grouped together within the terrace rows, and there is a uniformity in the appearance of the properties within each group. This adds interest and value to the character of the area. Save for the occasional porch over a front door, there appears to have been little in the way of extensions or projecting additions to the front elevation of properties in the street.

4. The appeal site is occupied by a mid-terrace property that is one of two adjoining properties¹ in the row that share a similar design. That shared design is of a curved front window at ground floor and a flat canopy above the main entrance. Otherwise there is a lack of any other protruding elements on the front elevation. The development that is subject of the appeal has introduced a projecting timber structure at ground floor level supported by three pillars. The structure spans almost the width of the property and projects from the front elevation beyond the curved window and canopy.
5. I do not find the development to have an overbearing effect or harm the outlook of occupiers of any neighbouring properties. I also acknowledge that the depth of the structure is not substantial and that it is open sided. However, the timbers that make up the structure are thick set and make this a prominent projecting element, particularly at its highest and most visible part. Its design and materials are at odds with the simple character of the host property, and they are not common to any front additions in the close vicinity of the appeal site. Furthermore, the structure is sufficiently prominent for it to be conspicuous in the street scene, and to visually unbalance the symmetry between the appeal property and that at No 37. Despite some variations in the design of properties within the street, I find the addition to be an incongruent element that causes detriment to the character and appearance of the street.
6. Whilst I acknowledge that a number of residents have signed a petition to say they do not object to the 'décor', the lack of any objection by these residents does not in itself outweigh the harm I have identified in this case or alter my findings so far.
7. For the reasons given above, I conclude that the effect of the development on the character and appearance of the site and the area is unacceptable. Accordingly, I find conflict with Policy DMP1 (Development management general policy) of the London Borough of Brent Local Plan: Development Management Policies dated November 2016. This Policy informs that development will be acceptable provided that, amongst other matters, it complements the locality, and its siting, materials and design provide a high level of external amenity. The development also fails to accord with the advice on front extensions and porches at 2.7 of the Council's Residential Extensions and Alterations SPD 2 dated January 2017, as well as paragraph 130 of the Framework.

Other Matters and Planning Balance

8. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be

¹ With the adjoining property at No 37 Ilex Road.

in accordance with the plan unless material considerations indicate otherwise. For the reasons set out above, the development proposed is contrary to the development plan. It is therefore necessary for me to consider whether there are any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.

9. The appellant has provided particular details with regard to one of the occupiers of the appeal site. Having regard to this evidence, there is potential for my decision to have an effect on a person who shares a protected characteristic². Accordingly, under the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, I must have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
10. The appellant suggests that the development was carried out to be fitted with coloured lights which benefit the occupier of the property referred to above. I do not dispute that the development provides a means of enhancing the occupier's environment. In these circumstances this benefit of the development adds weight in favour of the grant of planning permission. This must, however, be balanced against the harm I have identified in this case. In considering this balance, I have insufficient evidence to allow me to conclude that great weight should be attributed to the benefit of the development. Furthermore, I cannot be certain that this benefit could not be achieved by alternative means, such that the occupier would be disadvantaged in the event the appeal is dismissed. Accordingly, on balance, I do not find this material consideration to be of sufficient weight to overcome the harm caused by the development.
11. All things considered, I have no reason to conclude that my determination of the appeal should be made otherwise than in accordance with the development plan. Accordingly, I conclude that planning permission ought not to be granted and that the ground (a) appeal should fail.

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 Town and Country Planning Act 1990 as amended (the 1990 Act).

Formal Decision

13. The appeal is dismissed, 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.

J Moss

INSPECTOR

² As defined in section 149(7) of the Equality Act 2010.