



Appeal Decision

Site visit made on 3 December 2021

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 19 January 2022

Appeal A: APP/U5930/C/21/3284111

Appeal B: APP/U5930/C/21/3284112

20 Woodbury Road, London, E17 9SB

- 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 appeals A and B are made by Mrs Mamataz Khan Siddique and Mr Shimon Kabir Siddiqui respectively against an enforcement notice issued by the Council of the London Borough of Waltham Forest.
 - The enforcement notice, numbered ENF/210662/210693, was issued on 2 September 2021.
 - The breach of planning control as alleged in the notice is the erection of a single storey rear extension which extends beyond the pre-existing lawful rear extension and the works to increase the height of a section of the boundary wall fronting the public highway adjacent to Woodbury Road.
 - The requirements of the notice are 1) Demolish and remove the new rear extension and restore this part of the Land to its former condition making good any damage caused by its installation or removal; 2) Remove the works undertaken to increase the height of the boundary wall fronting the public highway and restore the wall back to its former height and condition (as shown on attached Photograph B); and 3) Following compliance with Steps (1) and (2), remove from the Land all resulting waste materials, rubble and general detritus.
 - The period for compliance with the requirements is one month.
 - Appeals A & B are proceeding on the grounds set out in section 174(2) (c), (e) and (f) of the Town and Country Planning Act 1990 as amended. In respect of Appeal A only, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act also falls to be considered.
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Decision

1. The appeals are 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.

Ground (e)

2. The Appellants accepted in their final comments that the notices were served on 3 September and the appeal on this ground no longer falls to be considered.

Grounds (b) and (c)

3. An appeal on ground (c) is on the basis that the part of the matters stated in the notice, that is a single storey rear extension, do not constitute a breach of planning control. The appellant's case is that the measurements given by the Council in their evidence are inaccurate. In addition the appellant argues that the description of the breach on the notice as *'the erection of a single storey*

rear extension which extends beyond the pre-existing lawful rear extension is inaccurate as the works are an open storage area rather than a single storey extension. The appellant's case is therefore that part of the matters stated in the notice did not in fact occur (because the description is incorrect) which is an appeal under ground (b), and, that if they did occur, they did not require permission which is an appeal under ground (c).

4. It is clear from the evidence submitted by both parties and my observations during the site visit, that building operations, which constitute development under section 55 of the 1990 Act for which planning permission would be required, have taken place. The appellant has not argued that the works benefitted from either an express permission or permitted development rights.
5. The word 'extension' does not only connote internal living space and the structure as built can thus be described as an extension irrespective of any intended use. In addition, it is clear that the structure is single storey as it is not higher than the pre-existing rear ground floor extension. The measurements of the size of the development are not included in the notice. The description of development on the notice is therefore accurate.
6. Development as described in the notice which required planning permission which it did not have has taken place and, for these reasons, the appeals on grounds (b) and (c) do not succeed.

Ground (a) and the deemed application for planning permission

7. The development is described in two parts on the notice: a single storey rear extension which extends beyond the pre-existing lawful rear extension; and works to increase the height of a section of the boundary wall adjacent to Woodbury Road. The deemed application for planning permission is for the development as described in the notice i.e. the development as it was built at the time that the notice was issued.
8. The main issue in the ground (a) appeal is the effect of the development on the character and appearance of the host building and the area; and on the living conditions of the occupiers of the host property and neighbouring properties. These issues primarily concern the external appearance of the development and are not overly affected by the use (i.e. whether it has been constructed as additional living space or storage associated with the residential use.)
9. The appeal site is an end-terrace dwellinghouse on the corner of Woodbury Road with a small front garden and narrow rear garden. It is located in a predominantly residential area with a school opposite. Part of the existing side boundary wall with Woodbury Road has been increased in height and topped with stone coping and two small plinths with decorative balls. The rest of that boundary has been painted white. A horizontal opening with a metal lattice remains along the top of part of the built up wall which is above head height.
10. It is clearly evident, despite the uniform white paint finish, that the wall has been built up using a different material compared to the brick originally used. The blocks used to increase the height of the wall are much larger than the pre-existing bricks. The new part of the rear extension adjoins the existing dwelling and consists of a roof (with 2 large rooflights) across the width of the yard which also adjoins the top of the new rear wall. A white uPVC door leads from the development onto Woodbury Road and double white uPVC doors lead

from it into the pre-existing extension. The works are unfinished but have a concrete floor and plastered walls, and appeared to be configured to allow for the installation of electricity (including points for light switches).

11. The most commonly used building material in the area is brick but there is also some painted render, and the school opposite includes a variety of materials including blocks, brick, cladding and wood. The host property, including the very large and prominent gable wall which abuts Woodbury Road, is painted white so that most of that boundary is now one colour (with the exception of the yellowy-stone coloured coping and decorative features). However, it is immediately evident that several types of material are painted over so that the effect is not of a uniform boundary but rather a clumsy and disordered façade which appears slapdash and unattractive. It is obvious that the height of the original boundary has been raised by the use of the much larger blocks and the opening which has been left is not symmetrical in terms of the overall boundary and looks incongruous, as do the decorative elements. The gable wall immediately adjacent to the footway on the corner plot is now overly conspicuous in that location as a result of its increased height, colour and the inconsistent materials used in its construction. The development is therefore causing harm to the appearance of the host property and the character and appearance of the area.
12. The development will be visible from the neighbouring properties, including the garden of No. 22, which would increase the feeling of enclosure and cause some limited harm to the living conditions of the occupiers. The development also reduces the private outdoor space available to the occupiers of the host property, but part of the rear garden still remains and the harm caused in this respect is therefore also limited.
13. I have taken into account the appellants' personal circumstances but these issues do not directly relate to the need for external storage, especially taking into account that the reason given for needing it was to store a yet to be purchased motorbike. The appellant's personal circumstances do not therefore outweigh the harm that I have identified above.
14. I have also considered the other developments in the vicinity (referred to in appellant's evidence) and accept that there are other examples of rendered extensions and walls adjacent to the footways or clearly visible from the public domain. However, this does not change the overall character and appearance of the area, and the existence of other potentially harmful development elsewhere is not a justification for allowing development which is in conflict with the development plan. In addition, the planning merits of a development depends on its particular facts and circumstances and I have set out above the reasons why I find the development causes harm in this location.
15. The appellant also raised issues regarding the respective timings of the submission of a retrospective application for the development and issuing of the notice. However, this appeal is solely regarding about the enforcement notice, and I have dealt with the ground (a) appeal on that basis.

Conclusion on ground (a)

16. As set out above, the development causes harm to the host building and area, and to the living conditions of the occupiers of the host property and No.22. It is in conflict with development plan policies including Policy CS 15 of the

Waltham Forest Core Strategy 2012 and Development Management Policy DM 29 which, amongst other things, seek to secure well designed buildings places and spaces which respond to their context and enhance local character, and DM Policy 32 which seeks to manage the impact of extensions on occupiers and neighbours. These policies are also in accordance with the aims of the London Plan 2021 and the National Planning Policy Framework 2021. The development is therefore contrary to the development plan and, in the absence of any material consideration of sufficient weight to overcome this conflict, I conclude that the appeal on ground (a) should not succeed and refuse to grant planning permission on the deemed application.

Ground (f)

17. The basis of an appeal on this ground is that the steps required exceed what is necessary to remedy the breach of planning control, or, as the case may be, to remedy any breach to amenity. The appellant's case on this ground is that the notice was arbitrary or capricious as shown by the fact that the retrospective planning application was not accepted for determination by the Council, but I did not see any such evidence.
18. In any event, the purpose of the notice was to remedy the breach of planning control. The appellant did not suggest any other scheme to be considered as part of their appeal, and there is no obvious alternative which would achieve the purposes of the notice with less cost and disruption. The requirements, which aim to return the appeal property to its original condition before the unauthorised development was undertaken, do not therefore exceed what is necessary to remedy that breach and the appeal on this ground fails.

Zoë Frank

INSPECTOR