



Appeal Decision

Site visit made on 1 February 2022

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2022

Appeal Ref: APP/W5780/C/20/3258405

225 Ashburton Avenue, Seven Kings, Ilford, IG3 9EJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Abdus Salam against an enforcement notice issued by London Borough of Redbridge.
 - The notice, numbered E0253/19, was issued on 27 July 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the retention of a two storey rear extension and roof terrace.
 - The requirements of the notice are to:
 - (i) Demolish the second-floor rear extension in its entirety,
 - (ii) Remove boundary treatment in its entirety on first floor roof forming the roof terrace, and
 - (iii) Remove all resulting materials, rubble and debris in compliance with steps (i) and (ii).
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) 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. It is directed that the enforcement notice is corrected by:
 - Deleting the word 'retention' and substituting it with 'construction' in the alleged breach of planning control;
 - Deleting the words 'second-floor' and substituting them with 'first floor' in requirement (i).
2. Subject to the corrections, 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.

Preliminary Matters

3. The alleged breach of planning control refers to a two storey rear extension and roof terrace. I am aware that a hip to gable extension to the roof has also been constructed, and a rear dormer. These elements are referred to in the Council's appeal statement, but as they are not included in the allegation I have not considered them in this appeal. Furthermore, I note the appellant's view that the loft conversion benefits from permitted development rights but this matter is not before me.

4. Several planning applications have been made to extend the property. A first floor side extension was approved in 1999¹. A single storey rear extension was granted in 2017², with an alternative granted later in 2017³ which was deeper on the boundary with No. 227.
5. The neighbouring occupiers have raised concerns in relation to other development at the property, but it is not the subject of the enforcement notice and therefore does not form part of the deemed planning application.
6. Since the appeal was lodged the revised National Planning Policy Framework was published in July 2021. The parties have been given the opportunity to comment on its implications for the appeal.

Matters concerning the notice

7. I have a duty to try to get the notice in order. The allegation refers to the retention of a two storey rear extension and roof terrace. 'Retention' is not an act of development, and it would be better described as 'construction'. Such a correction would not cause injustice to the parties.
8. Requirement (i) of the notice is to demolish the second floor rear extension in its entirety. This does not match the allegation. However, the Council has confirmed that the requirement refers to the first floor element, rather than the two storey rear extension as a whole. I am satisfied that I can correct the wording of requirement (i) to specify that it requires the removal of the first floor, without causing injustice to the parties.

The appeal on ground (a) and the deemed planning application

9. The ground of appeal is that planning permission should be granted for matters stated in the notice. Having regard to the reasons for issuing the notice, the main issues are:
 - The effect of the development on the character and appearance of the site and surrounding area; and
 - The effect of the roof terrace on the living conditions of the occupiers of 227 Ashburton Avenue with regard to privacy, outlook and light.

Character and appearance

10. The appeal site is an end of terrace dwelling in a predominantly residential area. Many of the properties have been altered and extended, but there is a high degree of uniformity through the pattern of development, distinctive front gables and simple side and rear elevations. The site is prominently located on a corner plot with Forterie Gardens running along its side boundary. Some of the end of terrace properties at the junction of Forterie Gardens with Ashburton Avenue have been extended to the side on two storeys, so that the flank elevation abuts the edge of the public footway. However, I noted that in the vicinity of the site, two storey rear extensions to end of terrace properties are generally set away from the side boundaries with the public footway.

¹ Ref 1331/99

² Ref 5627/17

³ Ref 0757/17

11. In contrast, the rear two storey extension and roof terrace are built up to the side boundary with the public footway. Due to its height, depth and proximity to the side boundary, the flank wall of the extension is an imposing and dominant feature. When taken with the extended flank wall of the front part of the house, it has resulted in an overly deep and bulky appearance that is at odds with the prevailing built form. Its imposing appearance is accentuated by the contrasting external material with the main house. The side brick wall of the roof terrace further adds to the bulk of the built form in a prominent location. As a result, the development is overly bulky and imposing, which detracts from the street scene.
12. I therefore conclude that the development is harmful to the character and appearance of the site and surrounding area. It is thus in conflict with Policies LP26 and LP30 of the Redbridge Local Plan 2018 (LP), insofar as they seek to ensure high quality design that respects the local character of the area.

Living conditions

13. The appeal site adjoins No 227, which has a long rear garden. Due to the pattern of development, the rear garden and windows on the rear elevation would have benefitted from a degree of privacy prior to the development taking place. The first floor element of the extension is set in from the side boundary with No 227, creating an open area of flat roof, that could be accessed via French windows from the first floor room.
14. Due to the proximity of the flat roof to the garden of No 227, anyone using the area for amenity purposes would have a clear view into the adjacent rear garden and towards the rear windows, which would be harmful to the privacy of the occupiers. Although the extension is located roughly to the west of No 227, the first floor element of the extension is set away from the side boundary. Any impact on sunlight and daylight reaching the rear garden and rear windows is therefore minimal. Similarly, due to the inset from the boundary between the two properties, the first floor element does not dominate the outlook from the rear windows.
15. I therefore find that the development is harmful to the living conditions of the occupiers of No 227 with regard to privacy, but it is not harmful with regard to light and outlook. It is therefore in conflict with LP Policies LP26 and LP30, which seek, amongst other matters, to ensure that new development does not result in adverse impacts upon the amenity of neighbouring occupiers.

Appeal on ground (f)

16. The ground of appeal is that the steps required by the notice to be taken, exceed what is necessary to remedy the breach of planning control. The appellant has not clarified in what way the requirements are excessive, but has stated that the Council did not provide an opportunity for the appellant to seek consent for an alternative scheme. As no lesser steps have been suggested, the appeal on ground (f) fails.

Appeal on ground (g)

17. The ground of the appeal is that the period for compliance with the notice is too short. The period for compliance is three months. The appellant states that the period is insufficient due to financial constraints and the amount of work required, as well as the difficulty securing a builder, although an alternative

period has not been suggested. I consider that the period of 3 months strikes a reasonable balance between the interests of the appellant and the need to bring the breach of planning control to a timely resolution. The appeal on ground (g) therefore fails.

Conclusion

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

N Thomas

INSPECTOR