The Planning Inspectorate

Appeal Decision

Site visit made on 24 March 2022

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 4 April 2022

Appeal A - Appeal ref: APP/N5090/C/21/3283733
50 Glengall Grove, London E14 3ND

- The appeal is made by Mr Michael Negrou under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by the London Borough of Tower Hamlets Council.
- The notice was issued on 23 August 2021; reference No. ENF/0804/21.
- The breach of planning control was: Without planning permission, the unauthorised erection of a single storey side extension to the property, shown in the approximate location outlined in blue on the plan attached to the notice.
- The requirements of the notice are:
    1. Remove the unauthorised a single storey side extension to the premises, shown in the approximate location outlined in blue on the site location map, Plan 1A in Appendix 1 to the notice and shown on Plan 1B also in Appendix 1 as well as photographs in Appendix 2 to the notice.
    2. Make good any damage to the host building and remove all debris occurring from compliance with step 1 above.
- The period for compliance with the requirements is three (3) months.
- The appeal was made on grounds (a) and (f) as set out in the amended Act. As the appeal was brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of decision: The appeal succeeds. The enforcement notice is quashed

- **APPEAL B - Appeal ref: APP/E5900/W/21/328458**
- **50 Glengall Grove, London E14 3ND**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal was made by Mr Michael Negrou against the decision of the London Borough of Tower Hamlets Council.
- The application ref: PA/20/00494 was dated 5 March 2020.
- It was refused by a notice dated 9 August 2020.
- The development was described as: Single storey side extension (retention of).

Summary of decision: The appeal is allowed. Planning permission is granted to retain the appeal extension

Appeal property

1. The appeal property, No. 50 Glengall Grove, is a 3 storey end of terrace dwelling. Surroundings are mostly 3 and 4 story terraced housing. There is a junior school just to the south. No 50 Glengall Grove is on the north-western corner of the road junction with Marshfield Street.

2. The appeal concerns a single storey extension which has been built onto the side of No. 50 alongside the Marshfield Street footway. It is built of red brick, with a flat roof. The Glengall Grove frontage has a window matching that of the house alongside. It appears that 5 square windows were originally built into the plain brick side wall of the extension. One remains.

The implied ground (e) appeal

3. The Appellant, Mr Negrou, said the Council failed to serve the enforcement notice correctly. The notice was sent to Flat 11 rather than Flat 19 in Llandovery House, London E14 3LE. He said that in legal terms the enforcement notice should be void or at least should be served again.

4. Sending the enforcement notice to the wrong address was an unfortunate slip, made worse for the intended recipient, Mr Negrou, who felt it may have caused an infringement of his privacy. However, Mr Negrou made a timely appeal against the enforcement notice, submitting comprehensive representations in support of his case. I found nothing which suggested that Mr Negrou had suffered any injustice as a result of the initial service of the enforcement notice to the wrong address. The address slip does not invalidate the notice nor require it to be served again. An appeal on ground (e) would have failed.

The implied ground (c) appeal

5. In his submissions in support of his appeal, Mr Negrou suggested that the side extension works had not resulted in a replacement building. The works had been the maintenance and repair of an existing side extension to the house. However, in his letter dated 28 March 2019 Mr Negrou said his intention was to demolish the old side extension and replace it with a new one. The evidence of the Council was that the previous side extension had been demolished towards the end of 2019. A photograph of the site after demolition of the old structure provided confirmation that the site had been cleared. The appeal side extension was a new structure, not a repaired or refurbished original building. Where a building is demolished and a replacement is constructed without planning permission, the only lawful use is the lawful land use. There are no use rights for a building on the site, the case of *Hancock v SSCLG & Windsor and Maidenhead RBC* [2012] EWHC 3704 (Admin) is authority for that position. The new side extension amounted to operational development that required planning permission. It was not development permitted by the General Permitted Development Order. An appeal on ground (c) would have failed.

The appeal on ground (a) and the s.78 planning appeal

6. The ground (a) appeal incorporates a deemed planning application to retain the extension enforced against. The s.78 planning application appeal deals with same deliberations as for the ground (a) appeal. They are considered together.

7. Mr Negrou said his newly built single storey side extension at No. 50 was a replacement of a similar, but poor quality, extension. The new side extension

extended the full depth of the property along Marshfield Street to align with the rear extension. The works also replaced a dilapidated wall that bounded the edge to the Marshfield Street footway. The new extension was a substantial improvement in terms of thermal loss and a major improvement to the aesthetic character and appearance of the street scene.

8. I found the appearance of the appeal side extension façade to the Glengall Grove frontage to be sympathetic to the house, sharing some of its features. It is acceptable and fitting. The side wall is less attractive, however. I share some of the Council's concern that the part of Mr Negrou's new side extension immediately alongside the Marshfield Street footway is a somewhat uncompromisingly stark feature in the street scene. The long side wall brickwork is prominent and has resulted in a slightly closed in feeling alongside the footway, no longer relieved by the earlier fitting of several windows. Nevertheless, whilst the right to rebuild the former extension following its demolition was lost, it is reasonable, in my view, to bear in mind a comparison with what is there now and what was there before. Had the old extension been repaired and upgraded without such works amounting to operational development that required planning permission, no such planning permission would have been required. In fact, the appeal extension was built to replace an unsound extension and to replace an unsafe wall. I also note the support of a number of local residents, who, rather than objecting to the new extension, prefer it to the old now demolished structures.

9. Policy D.DH2 of the Tower Hamlets Local Plan (2020) seeks to ensure that development protects and where possible enhances or increases the extent of the amenity of new and existing buildings and their occupants, as well as the amenity of the surrounding public realm. In the circumstances, I consider it reasonable to consider that whilst the appeal extension may not much satisfy those objectives, it is an improvement on what was there before demolition of the old extension and the damaged roadside wall. On balance, I consider it would be unreasonable and unfair that Mr Negrou should lose his home's side extension if this appeal were to fail. The appeal on ground (a) succeeds. Planning permission is granted to retain the appeal extension.

FORMAL DECISIONS

Appeal A - Appeal ref: APP/N5090/C/21/3283733

10. The enforcement notice is quashed. Planning permission is granted on the application deemed to have been made for the retention of the single storey side extension at No. 50 Glengall Grove, London E14 3ND.

Appeal B - Appeal ref: APP/E5900/W/21/328458

11. The appeal succeeds. Planning permission is granted on application ref: PA/20/00494 was dated 5 March 2020 for the retention of the single storey side extension at No. 50 Glengall Grove, London E14 3ND.

John Whalley

INSPECTOR