



Appeal Decision

Site visit made on 21 June 2022

by Katie Peerless Dip Arch RIBA

an Inspector appointed by the Secretary of State

Decision date: 1 July 2022

Appeal Ref: APP/B5480/C/20/3265979

38 St. Johns Road, ROMFORD, RM5 2RU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by MRS BERNADETTE MITCHEL against an enforcement notice issued by London Borough of Havering.
 - The notice, numbered ENF/649/18, was issued on 24 November 2020.
 - The breach of planning control as alleged in the notice is the construction of a rear extension.
 - The requirements of the notice are: (i) Demolish the southernmost part of the rear extension (in the area as marked in hatching on the plan attached to the enforcement notice) which extends beyond the 6 metre deep rear extension and (ii) Remove all other debris, rubbish or other materials accumulated as a result of taking step (i) above.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Appeal site

2. The appeal property is a semi-detached house in a row of similar properties. It has had the addition of a single-storey rear extension, which projects 6m from the original rear wall. The construction that is the subject of the appeal was originally attached to the extension and projected just over 2m further into the rear garden. However, a gap has now been created has now been separated from it by a gap which is, at its maximum 150mm wide.

Planning history

3. Prior approval was granted in 2017 for the 6m deep rear extension to the appeal property. The extension was constructed but the boiler room with a further projection of 2m was subsequently added at the rear. This took the total depth of the new additions to more than that permitted by the terms of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO). A planning application to retain this boiler room was refused in 2019.
4. The boiler room was then modified to create a gap between it and the rear wall of the permitted extension and the appellant applied for a Certificate of Lawfulness for the construction. This was refused in March 2020 and the enforcement notice calling for its removal, subject of this appeal, was issued in November of that year.

Procedural matter

5. There is no dispute between the parties that, if the boiler room is considered to be an outbuilding (as claimed by the appellant) rather than an extension (which is the Council's submission) it would meet the criteria set by Class E of Part 1 of Schedule 2 of the GPDO.

Main Issues

6. I consider the main issue in this case is whether the development enforced against is development permitted by the GPDO.

Reasons

7. The GPDO does not grant retrospective planning permission. Therefore, for the boiler room to be permitted development it would need to have been authorised by the version of the GPDO that was in force at the time the development was begun, which it was not.
8. Although the boiler room has subsequently been altered to create a degree of detachment from the rear wall of the dwelling, it was originally built in breach of planning control as it exceeded the depth permitted for residential extensions. It is my view that it has not now be granted a retrospective permission by the GPDO, even if it meets the size criteria for a class E building.
9. In any event, the boiler room is still connected to the main house by at least five conduits and wires running above ground level carrying services between the buildings. Some of the service conduits are rigid, forming a visual connection and, in my view, can be differentiated from underground pipework or overhead wires that might normally run between buildings spaced more widely apart. These connections, together with the very minimal space between the buildings, which is, as previously noted, only 150mm at most, serve to confirm that the boiler room should be considered as an extension to the main house which was built as such and is still physically connected to it.

Conclusion

10. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Katie Peerless

INSPECTOR