



Appeal Decision

Site visit made on 25 August 2022

by Peter Willows BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 September 2022

Appeal Ref: APP/U5930/C/20/3264138

21 Woodlands Road, Walthamstow, London E17 3LD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Dappleglade Limited against an enforcement notice issued by Waltham Forest London Borough Council.
 - The notice, reference 089840, was issued on 29 October 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission;
 1. The construction of an extension to the roof of the two storey rear projection to create a roof terrace with balustrade railings.
 2. The raised ridge and raised front roof plane.
 - The requirements of the notice are:
 1. Demolish and remove the unauthorised roof terrace including the removal of the flooring and balustrade railings from the land.
 2. Reinstate the roof of the two storey rear projection back to its former condition and height.
 3. Reduce the height of the main roof ridge and the roof plane back to the original position prior to the unauthorised works.
 - The period for compliance with the requirements is 6 months.
 - 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.
-

Decision

1. The appeal is allowed insofar as it relates to the raised ridge and raised roof plane and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for a raised ridge and raised roof plane at 21 Woodlands Road, Walthamstow, London E17 3LD.
2. The appeal is dismissed and the enforcement notice is upheld insofar as it relates to the other elements of the scheme, and planning permission is refused in respect of the construction of an extension to the roof of the two storey rear projection to create a roof terrace with balustrade railings on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Main Issues

3. The main issues are:
 - The effect of the roof terrace on the character and appearance of the area and on the privacy of neighbouring occupiers; and

- The effect of the increased height of the main roof on the character and appearance of the area.

Reasons

The roof terrace

4. Since the notice was issued, the appellant has altered the roof to remove the roof terrace and railings. I saw during my site visit that a pitched roof has been constructed at the rear end of the property, where the terrace and railings had been. This is also shown in photographs provided by the appellant. It is not my role to decide if this has brought about partial compliance with the notice, but the appellant considers that it has done so and makes no case that the roof terrace should be permitted. An email from the Council dated 24 May 2021 suggests that the Council may also agree that Requirements 1 and 2 of the notice have been complied with.
5. In view of the above, the appellant regards the notice as 'not applicable' insofar as it relates to the roof terrace. However, there is no dispute that the notice correctly characterised the roof terrace at the time it was issued, and it remains applicable, even if it has already been complied with in that respect. The Council alleges that the terrace caused visual harm and overlooking of neighbouring properties, contrary to Policy CS15 of the Waltham Forest Local Plan Core Strategy and policies DM4, DM29 and D32 of the Waltham Forest Development Management Policies Local Plan, a claim the appellant does not dispute. I have no reason to take a contrary view. Accordingly, I find conflict with the development plan as a whole and I will uphold the notice insofar as it relates to the roof terrace.

The raised roof

6. The works carried out have resulted in the ridge of the main roof being raised (the Council estimates an increase of about 365mm), placing it noticeably higher than the adjoining No 23. However, such a change must be considered in its context. There is no uniformity of ridge heights within the terrace; the road is on a gentle incline, and so there is necessarily some change in ridge heights arising from that. There are also differences due to different house types. The variations in the vicinity of the appeal site include the fact that the neighbouring No 23 is noticeably lower than the adjoining property to the other side (No 29). Within this context, the variation in height of the appeal property compared to No 23 does not appear incongruous or visually harmful. The increase in height has not resulted in a noticeable disparity in height between the appeal property and No 19 to the other side. Minor variations are disguised by the parapet walls separating the properties. Overall, therefore, the rhythm of the roofscape has not been harmed.
7. For these reasons I conclude that the change to the main roof of the property has not harmed the character or appearance of the area. Consequently, there is no conflict with the design aims of Core Strategy Policy CS15 and policies DM4 and DM29 of the Development Management Policies Local Plan. I have had regard to the Council's Residential Extensions and Alterations Supplementary Planning Document, which advises that any dormer that goes above the ridge height of the host building will not be acceptable. However, I am not persuaded that this means that the fairly modest raising of the roof ridge should be ruled out in this instance, given its satisfactory appearance. I

will therefore allow this element of the development and grant permission for it. Since my decision arises from the specific details of this case, no more general precedent can be set. No conditions have been suggested and none are necessary in my view.

8. It is not necessary to alter the requirements of the notice; section 180 of the Act provides that where, after the service of an enforcement notice, planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission. In this instance, that means that Requirement 3 set out at section 5 of the notice will cease to have effect as a result of the planning permission I will grant.

Conclusion

9. For the reasons given above I conclude that the appeal should succeed in part only, and I will grant planning permission for the raised roof but otherwise I will uphold the notice and refuse to grant planning permission in respect of the roof terrace and railings. The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of section 180 of the Act.

Peter Willows

INSPECTOR