



Appeal Decision

Site visit made on 10 November 2022

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2023

Appeal Ref: APP/W5780/C/20/3261271

67 Spencer Road, Ilford, IG3 8PW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (hereafter "the Act").
 - The appeal is made by Mr Mohammed Feroz against an enforcement notice issued by the Council of the London Borough of Redbridge.
 - The enforcement notice was issued on 16 September 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of an unauthorised single storey extension.
 - The requirements of the notice are:
 - (i) Demolish the single storey rear extension
 - (ii) Remove all resulting materials, rubble and debris in compliance with step (i).
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Act. 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. The appeal is 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 Act.

Ground (a)/deemed application for planning permission

Main Issue

2. The main issue is the effect of the extension upon the living conditions of occupiers of the adjoining property at No. 65 Spencer Road, with particular regard to outlook and daylight.

Reasons

3. I was unable to obtain access into the rear garden, however I was able to view the extension and its relationship with the rear of No. 65 from the street and by taking photographs over the boundary wall which I was able to view at the time and subsequently¹.
4. The extension covers the full width of the rear elevation of the house. In combination with the 6 metre depth and two storey extensions approved in 2017², the combined depth is now 9 metres. None of this is disputed by the appellant.

¹ Photographs now deleted

² Planning Permissions 1932/17 and 0532/17

5. Contrary to the appellant's view I find that it extends a considerable way further back beyond the rear of No. 65 and, together with its height, results in a significant overbearing effect on the outlook of occupiers of No. 65, being harmful to their living conditions.
6. While the extension also reduces the amount of daylight into the garden of No.65 it would not do so to any significant degree. However, this does not reduce the level of harm I have identified in respect of outlook.
7. I have considered whether the imposition of planning conditions would mitigate the harm resulting from the development, but there are none that would do so.
8. I conclude overall that the extension conflicts with the requirements of Policies LP26(l) and LP30(d) of the Redbridge Local Plan (2018) which, taken together, seek to ensure that all new development is of a high quality design and does not result in an adverse impact upon the amenity of neighbouring occupiers, including in terms of their outlook.
9. The appeal on ground (a) therefore fails.

Appeal on ground (f)

10. Section 173(3) of the Act requires an enforcement notice to specify the steps which the authority require to be taken for the purposes of remedying the breach of planning control under s.173(4)(a), or, as the case may be, to remedy any harm to amenity resulting from the breach (s.173(4)(b)). In this appeal the notice requires the complete removal of the extension. Therefore it is clear the purpose of the notice is to remedy the breach of planning control within s.173(4)(a).
11. Hence, the appeal on ground (f) in this case is that the notice requirements exceed what is necessary to remedy the breach of planning control.
12. The appellant has suggested that the extension could be separated from the previous extension and that it would then constitute "permitted development" as a shed. However, there is no convincing information submitted to establish that it would be permitted development in such circumstances. That aside, it is clear to me that anything less than complete removal of the extension would fail to fully remedy the breach.
13. Only complete removal of the extension would remedy the breach. No lesser requirement would do so. Therefore the requirement in the notice to remove it cannot be an excessive requirement.
14. The appeal on ground (f) therefore fails.

Thomas Shields

INSPECTOR