



Appeal Decisions

Site visit made on 9 November 2022

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2023

Appeal Ref: APP/W5780/C/21/3274168

11 Kilmartin Road, Ilford, IG3 9PF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ("the Act").
- The appeal is made by Mr Imran Muhammad against an enforcement notice issued by the Council of the London Borough of Redbridge.
- The enforcement notice was issued on 1 April 2021.
- The breach of planning control alleged in the notice is without planning permission, the erection of an unauthorised single storey extension.
- The requirements of the enforcement 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 ground set out in section 174(2)(a) 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.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

The Enforcement Notice

1. The location of the extension is not given in the alleged breach of planning control at Section 3 of the enforcement notice, and not shown on the plan attached to the notice. However, having regard to the parties' evidence and the notice requirement (i) in Section 5, it becomes clear the appeal relates to the single storey extension located at the rear of the house. Also, the word "unauthorised" in Section 3 implies a second lack of consent in addition to being erected "without planning permission". As such, it is open to misinterpretation.
2. These are minor drafting errors. I am satisfied they can be corrected using powers available to me under s176(1) of the Act without injustice resulting to any party. I will therefore correct them accordingly.

Ground (a)/deemed planning application

Main Issues

3. The main issues are the effect of the extension upon the character and appearance of the area, and upon the living conditions of occupiers of neighbouring properties, with particular regard to privacy and outlook.

Reasons

Character and appearance

4. No. 11 Kilmartin Road is a two storey semi-detached house finished in brick and render. The appeal extension occupies the full width of the house and extends back approximately 3m from the rear of an earlier 6m depth extension granted planning permission under the GPDO¹. Its mono-pitch roof sits just below the height of the earlier extension and slopes down towards the rear garden.
5. The Council's states that the build is not good and unsightly, and its materials are not sympathetic to the main house made from brick.
6. However, I disagree. The house is constructed in brick, covered in render, and all windows and doors at the property are white uPVC double glazed units; being a form of construction found in many other nearby properties. Given this context this simple rectangular conservatory, with its lower half finished in brick and upper half and roof being white framed uPVC double glazing, I find it to relate well to the character and appearance of the host property and the wider area. I can find nothing wrong with its build quality.
7. While the maximum depth of additions to the rear is 9m, the conservatory is a low level single storey extension adding a further 3m of depth. In this regard I saw that a number of other properties nearby also had considerably large rear additions. In my view the appeal extension does not appear excessive or out of place given the prevailing character of the area. It also still leaves remaining a generous space of open garden to the rear.
8. For these reasons, I find there to be no harm to the character and appearance of the host property or to the wider area.

Living conditions

9. The side wall of the extension abuts a shared tall fencing boundary with a neighbouring property's garden. Given that only a small section of the uppermost part of the side windows are above the fencing, and at high level, and some distance beyond the neighbouring property's rear windows, I find there to be no significant risk of overlooking or loss of privacy.
10. Since the extra 3m depth can only be seen marginally above the fence height there is also no overbearing impact resulting in a significant loss of outlook, nor any significant loss of light to occupiers of the neighbouring property.

Conclusion

11. I conclude overall that the extension does not result in any significant harm to the character and appearance of the host property or to the wider area, or to the living conditions of occupiers of neighbouring properties. As such, it accords with the requirements of Policies LP26 and LP30 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 and privacy.

¹ Town and Country Planning (General Permitted Development) (England) Order 2015 – "prior approval"

FORMAL DECISION

12. It is directed that the notice be corrected in Section 3 by deleting all the words after the word "of" and substituting instead "a single storey rear extension".
13. Subject to the corrections the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act for the development already carried out, namely the erection of a single storey rear extension at 11 Kilmartin Road, Ilford, IG3 9PF as shown on the plan attached to the notice.

Thomas Shields

INSPECTOR