



Appeal Decision

Site visit made on 24 January 2023

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2023

Appeal Ref: APP/G5750/C/21/3282983

Land at 621 Romford Road, Manor Park, London E12 5AD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Waqas Shahnawaz against an enforcement notice issued by the Council of the London Borough of Newham.
 - The notice, numbered 20/00430/ENFC, was issued on 16 August 2021.
 - The breach of planning control as alleged in the notice is without planning permission the erection of structures on the roof.
 - The requirements of the notice are to:
 1. Demolish the structures on the roof (as shown in the approximate location edged in blue on the attached plan, and as shown edged in yellow on the photograph attached at Appendix 1).
 2. Remove from the site all debris arising from compliance with steps 1.
 - The period for compliance with the requirements is: One month.
 - 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.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Main Issue

2. The main issue of the appeal is the effect of the structures on the character and appearance of the area and its effect on the setting of the adjacent Durham Conservation Area (DCA).

Reasons

3. The appeal site comprises a commercial building which fronts onto Romford Road and backs onto Clarence Road, overlooking the DCA. I saw that, although the appeal site is a commercial premises, Clarence Road is generally residential, and typically comprises terrace dwellings with fine architectural detailing constructed using high quality traditional materials.
4. Paragraph 200 of the National Planning Policy Framework ('the Framework')(2021) states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. The Framework defines the setting of a heritage asset as the surroundings in which a heritage asset is experienced.

5. Although the appeal site is located outside the DCA, it can be seen from different locations within it, in particular from Clarence Road. Given its position in relation to the DCA, in my view, the appeal site forms part of the setting of the DCA. From the evidence before me and my observations on site, the significance of the DCA is derived from the fine architectural detailing used on various buildings throughout the DCA, the use of traditional materials and the layout and scale of development.
6. To the rear of the building, structures have been erected which, due to their projection above the flat roof are highly visible from Clarence Road and the DCA. The makeshift appearance of the materials used in construction of the structures contrasts with the high-quality materials used elsewhere along Clarence Road.
7. The appellant suggests painting the structures or changing the fabric to a dark or neutral colour to make the structures appear less prominent. However, the materials used would still contrast with the materials used elsewhere along Clarence Road and, due to their position above the flat roof, would still appear a prominent feature.
8. The structures are an incongruous feature which diminish the character and appearance of the area and harm the DCA, contrary to policies SP1, SP3 and SP6 of the Newham Local Plan 2018 (the NLP) and policy D4 of the London Plan (2021)(the LP) all seek good design and policy SP8 of the NLP seeks to ensure the quality of materials.
9. I consider that the harm arising to the significance of the designated heritage asset is less than substantial in the context of paragraph 202 of the Framework. Paragraph 189 of the Framework states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance. Paragraph 202 goes on to advise that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.
10. The appellant requests that the structures be retained either permanently or for further period of 1 year to allow for the replacement of the existing structure by a permanent roof structure for which a planning application can be made 2 months after the appeal decision. However, even if the structures were to be retained on a temporary basis, no benefits of the structures have been advanced which would, in my view, outweigh the harm to the character and appearance of the area and the harm to the DCA, the conservation of which I attribute great weight to. A permanent or temporary permission would not, therefore, be acceptable in this case and would not overcome the harms I have identified above.
11. The Council suggest the appellant's request for a temporary permission is more akin to a ground (g) appeal. However, even if I were to consider the request to retain the structures under ground (g), I consider one month is sufficient time to carry out the works required by the notice. Given the harms I have identified above, I consider the compliance period is reasonable and proportionate.

Other Matters

12. The Council has referred to policy D1 of the LP in its reasons for taking enforcement action. Policy D1 sets out the need for Boroughs to undertake area assessments to understand their capacity for growth and the approach that should be taken when preparing Development Plans. It is therefore not directly relevant to the appeal before me.
13. The Council has also referred me to policy D8 of the LP, which concerns the public realm. Although the appeal site is visible from the public realm, it does not comprise publicly-accessible space. While the design and layout of buildings can have implications for the public realm, I do not consider this policy to be determinative in this case.
14. The appellant points out that there has been no local objection to the appeal scheme. However, the absence of objection is a neutral factor in my consideration of the appeal.

Conclusion

15. I conclude that the development conflicts with the development plan as a whole and there are no material considerations which indicate that the decision should be taken otherwise in accordance with the development plan. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

M Savage

INSPECTOR