



Appeal Decision

Site visit made on 9 November 2022

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 March 2023

Appeal Ref: APP/G5750/C/22/3302965

37 Plashet Grove, London, E6 1AD

- 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 Ali Huq against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice was issued on 13 June 2022.
 - The breach of planning control as alleged in the notice is, without planning permission, the erection of an extension.
 - The requirements of the notice are:
 1. Demolish the extension (as shown in the approximate location edged in blue on the attached plan).
 2. On completion of step 1 remove all materials and debris from the site.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) 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. It is directed that the notice be varied in Section 5 by deleting “three months” and substituting instead “4 months”.
2. Subject to the variation 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) appeal/deemed application for planning permission

Main Issue

3. The main issue is the effect of the extension upon the character and appearance of the area, and upon the living conditions of occupiers of nearby properties with particular regard to outlook and light.

Reasons

4. The appeal site is a corner property fronting onto the northern side of Plashet Grove, at its junction with Waterloo Road, and sits within a defined town centre (Green Street District Centre). It is a three-storey mixed-use property, having two commercial units at ground floor, and flats above. To the rear of the property on Waterloo Road an extension, subject of the appeal, has been constructed which now fills the former open rear yard.

5. Given its town centre location, an extension to support the commercial use of No.37 is supported in principle by Policies S1, SP6, J1, and INF5 of the London Borough of Newham Local Plan (LP) (2018), which, taken together, seek to promote and maintain the vitality and viability of town centres, including retail uses in particular. Such an approach is also reflective of overarching strategic policies within the London Plan (2021).
6. The appeal extension needs to be assessed in terms of all of its contextual surroundings. As such, while the principle of an overtly commercial rear extension is acceptable, as I have set out above, its design and appearance must also be able to integrate reasonably well with the residential character of Waterloo Road.
7. Other than the flank and rear elevations of the commercial properties facing onto Plashet Grove, Waterloo Road is primarily characterised on both sides by traditionally constructed two storey terraced houses with bay windows, each with a small forecourt area behind a low wall that forms a continuous boundary with the pavement. There are also a few mature trees located within the pavement close to the carriageway edge. All of these features in combination underline the prevailing residential character and appearance of the road.
8. The Waterloo Road elevation of the extension has three separate bays comprising a pedestrian entrance giving access to the flats, and two equally sized larger units. These are glass fronted and are all housed within a single metal framework incorporating a separate roller shutter for each bay.
9. When in the closed position the three bays of roller shutters give the extension an inappropriately industrial appearance within the street scene. I acknowledge that there is a single roller shutter directly opposite, however it is of a much smaller domestic scale and appearance in comparison to those enclosing the appeal extension. The much larger expanse of shutters in the appeal extension is far more industrial in appearance. It is conspicuous and harmful to the residential character and appearance of the street scene. As such, the existence of the single roller shutter opposite the appeal site does not set a precedent or add any weight in support of allowing the appeal.
10. At its far end the extension projects forward of the bay window of No.2 Waterloo Road, adjoining and aligning with No.2's front forecourt boundary wall. Contrary to the appellant's view, I consider the extension's height at this end, in conjunction with its forward projection, has a bulky and overly dominant relationship with No.2. The extension's projecting wall is very prominent, and in views along the street reads as a strikingly jarring feature against the traditional architectural detailing and character of No.2's front elevation. This results in further harm to the character and appearance of the street scene.
11. The height and outward projection of the extension's end wall forward of No.2's bay window is unlikely to result in anything more than a minor loss of light and overshadowing. However, I saw during my visit to the appeal site that it is overbearing and intrusive, resulting in an unacceptable loss of outlook from that window for the property's occupiers, thereby being significantly harmful to their living conditions.
12. Some loss of outlook may also arise to any residential occupiers using the rear yard of No. 35 Plashet Grove. However, given the busy commercial nature of

properties on Plashet Grove and the existing physical surroundings of that yard, this does not weigh against allowing the appeal.

13. It is not clear to me as to whether the extension has resulted in a loss of refuse and recycling facilities for other occupiers. However, it seems to me that a scheme for appropriate and adequate facilities could be secured by way of a planning condition. Consequently, this matter also does not weigh against allowing the appeal.
14. I accept that the extension has replaced an open yard area where fly-tipping and criminal activity was occurring. However, these benefits, together with the economic benefits resulting from increasing commercial floorspace in the town centre, do not outweigh the significant harm I have previously identified to the character and appearance of the area, and to the living conditions of occupiers of No.2 Waterloo Road.

Conclusion on ground (a)/deemed application for planning permission

15. I have considered whether planning conditions would overcome or adequately mitigate the harm I have identified, but there are none that would do so.
16. To conclude, the extension is not of a high design quality in terms of its use of externally housed roller shutters, and in respect of its excessive height and forward projection where it adjoins No. 2 Waterloo Road, resulting in harm to the character and appearance of the area and to the living conditions of occupiers of No. 2. It thereby conflicts with Policies D1 and D3 of the London Plan (2021) and with LP Policies SP3, SP6, SP7 and SP8 which, taken together, require high quality design in all new development, including by responding to local context and character, and by minimising any overbearing impact on neighbours.
17. For all these reasons, the appeal on ground (a)/deemed application fails.

Appeal on ground (f)

18. Section 173 of the Act states two purposes which the requirements of an enforcement notice can seek to achieve. The first (s173(4)(a)) is to remedy the breach of planning control which has occurred. The second (s173(4)(b)) is to remedy any injury to amenity which has been caused by the breach. Hence, an appeal on ground (f) is a claim that the requirements of the notice exceed what is necessary to remedy the breach of planning control, or, as the case may be, to remedy any harm to amenity resulting from the breach.
19. The notice requires removal of the extension in its entirety, hence the purpose of the notice is to remedy the breach of planning control, s173(4)(a).
20. The benefits of retaining the extension and matters relating to bin storage have already been considered within the ground (a) appeal/deemed application for planning permission. Those considerations are not relevant to this ground (f) appeal which is concerned only with whether the notice requirements exceed what is necessary in order to remedy the breach of planning control.
21. Since the notice requirements do not go beyond simply undoing what has been done - removing the unauthorised extension - they cannot be excessive in terms of remedying the breach of planning control. No lesser steps would fully remedy the breach. The appeal on ground (f) therefore fails.

Appeal on ground (g)

22. The ground of appeal is that the period of time for compliance with the notice requirements falls short of what should reasonably be allowed. The appellant seeks a period of 6 months. The notice requires compliance within 3 months.
23. I am mindful that the harm resulting from the breach of planning control should now be remedied as soon as possible. However, I accept that securing and scheduling suitable contractors and completion of works may take longer than 3 months.
24. However, 6 months seems an unduly long period of time considering the nature and scale of remedial works to be undertaken, and has not been unjustified with any detailed information. In light of all the circumstances I consider on balance that 4 months would be more reasonable.
25. The appeal on ground (g) succeeds to this limited extent and I have varied the notice accordingly.

Thomas Shields

INSPECTOR