



Appeal Decisions

Site visit made on 2 February 2023

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

an Inspector appointed by the Secretary of State

Decision date: 06 March 2023

Appeals A and B Ref: APP/G5750/C/22/3294248 and 3294249 76 Kingsland Road, Plaistow LONDON, E13 9PA

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. The appeals are made respectively by Mr Gregory James Sinclair & Ms Adele Lloyd against an enforcement notice issued by London Borough of Newham.
 - The notice was issued on 31 January 2022.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a roof extension.
 - The requirements of the notice are to 1. Demolish the roof extension and return the roof to its form prior to the unauthorised works and 2. On completion of step 1, remove all materials and debris from the site.
 - The period for compliance with the requirements is three months
 - The appeals are proceeding on the grounds set out in section 174(2)(a), (c), (f), (g) 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 for Appeal A. There is no ground (a) appeal in relation to Appeal B.
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Decisions Appeals A and B

1. It is directed that the enforcement notice is varied by the deletion of 3 months and the substitution of 6 months as the period for compliance. Subject to this variation, the enforcement notice is upheld and planning permission is refused on the application deemed to have been under section 177(5) of the 1990 Act as amended on Appeal A.

Preliminary Matters

2. An application for costs has been made and that is the subject of a separate decision.

Reasons

Ground (c)

3. Section 174(2)(c) of the Town and Country Planning Act 1990 notes that an appeal may be made if the matters alleged in the notice (if they occurred) do not constitute a breach of planning control.
4. The Town and Country Planning (General Permitted Development) Order 2015 (as amended) [GPDO] provides the limits for permitted development. The Council says that the unauthorised development does not accord with the requirements for Class A or Class B of the GPDO as, amongst other things, it is too high and has not received planning consent.

5. GPDO Schedule 2 Part 1 Class A relates to the enlargement, improvement or other alteration of a dwelling. Development not permitted by Class A includes (c) if the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse or (d) the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse and (k) it would consist of or include the alteration to any part of the roof of the dwellinghouse. The extension exceeds the roof height, the rear eaves has been raised and the roof has been altered, so it does not fall within this Class.
6. Class B deals with additions etc to the roof of a dwellinghouse and notes that the enlargement of a dwellinghouse consisting of an addition or alteration to a roof is permitted, provided that any part of the dwellinghouse would as a result of the works not exceed the height of the highest part of the existing roof. In addition, a condition B2(b)(i)(aa) requires that the eaves of the original roof are maintained or reinstated.
7. The highest part of the existing roof is the ridge and not the side walls that extend through the roof to form a fire barrier. The development has clearly resulted in the increase in the existing ridge height of the existing premises and therefore fails the parameters of Class B of the GPDO. The increase is small, but the limits set out by the GPDO are not 'negotiable'. If they are exceeded then what has been constructed is not permitted development and requires planning permission. The Council also notes a number of other breaches, including non maintenance of the eaves which is clearly the case.
8. The appellants note that the works have received building control approval and that there is a party wall agreement. However, while these may be necessary to complete building works, they do not provide approval in relation to the planning system.
9. The appellants also note that the planning department did not issue a planning contravention notice. However, such a notice is not a pre-requisite to taking enforcement action. It is also unfortunate that the appellant has relied on the builder who considered the conversion to be permitted development, but unfortunately that does not make it so. The limits are clearly exceeded. If an applicant wishes to determine the lawfulness of a proposed development, then an application can be made for a Lawful Development Certificate.
10. The development is not permitted by Class A or Class B, so is not permitted development and as it has no planning permission. The appeals fail on ground (c).

Ground (a)

11. The main issues are the effect of the development on the character and appearance of the host dwelling and surrounding area.
12. The development plan includes the London Plan [LP] and the London Borough of Newham Local Plan [NLP]. Also relevant is Altering and Extending Your Home Supplementary Planning Document. NLP Policy SP3 relates to urban design and supports proposals, but with an expectation that all development realises a high quality of urban design in new buildings and spaces created. NLP Policy SP8 aims to ensure neighbourly development.

13. The SPD which carries some weight, also notes that an alteration at roof level should seek to preserve the character of the original house by maintaining street facing roof slopes, ridge lines and chimneys. In addition, all parapet walls and eaves should be retained where practicable.
14. The dormer is the full width of the main roof, with little setback from the eaves and sides. The development is built on the parapet walls dividing the terraced properties, extending that up to form the side elevations of the extension. The extension of the parapet walls unacceptably alters the appearance of the terrace, where the dividing parapets are an important feature. The extension effectively creates a second storey extension rather than altering an existing roof and also does not maintain the ridgeline or the eaves line. Unfortunately, the development has been constructed in a utilitarian way to maximise space internally with little thought for the external appearance of the building or the surrounding area. The development fails to respect the character of the original house, contrary to the design guidance of the SPD *Altering and Extending Your Home* and is not in accordance with NLP Policies SP3 and SP8.
15. I appreciate that the tiles used fit in with the existing house, which is a benefit, but that is not enough to overcome the harm caused by the bulk of the extension and its detailing. I have also taken into account housing need. This roof alteration does not provide for additional housing and, while a small enlargement of the dwelling and of significant benefit to the occupier, future proofing the property for the family and providing much needed extra space, this is not a sufficient reason to allow a poorly designed extension. I also understand that the neighbours do not object, but again that does not make it acceptable or justify the grant of planning permission.
16. While I acknowledge the position the appellants find themselves in, unfortunately the design is poor. It is in a prominent location within the terrace and unacceptably harms the character and appearance of the host dwelling and surrounding area and the personal circumstances do not outweigh that harm.
17. Appeal A fails on ground (a).

Ground (f)

18. While it will incur the appellant in costs which they consider excessive, the costs involved carry little weight in this matter. The appellant also believes there is no harm caused by the development. However, I have found there to be harm under ground (a).
19. The enforcement notice requires the demolition of the unauthorised development, which is required to remedy a breach of planning control. Whilst the appellant argues that demolition of the roof extension would be excessive, no alternative form of development has been presented to the Council, either by way of a planning application or through the ground (a) appeal. The Enforcement Notice does not prohibit the homeowner from seeking to engage with the Council and make a planning application for an amended scheme that is acceptable in terms of adopted policies. The appeals fails on ground (f).

Ground (g)

20. I consider that it would be possible to demolish the extension in 3 months, but I also consider that a reasonable amount of time should be allowed to submit a

planning application for a revised scheme. I consider that 6 months would be reasonable for this. The appeals succeed on ground (g).

Graham Dudley

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/G5750/C/22/3294248	Mr Gregory James Sinclair
Appeal B	APP/G5750/C/22/3294249	Ms Adele Lloyd