



Appeal Decision

Site visit made on 7 February 2023

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 25 May 2023

Appeal Ref: APP/G5750/C/21/3285790

694 Romford Road, Manor Park, London, E12 5AJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended ("the Act"). The appeal is made by Mr Emran Khan against an enforcement notice issued by London Borough of Newham.
- The notice, numbered 21/00287/ENFC, was issued on 29 September 2021.
- 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 to:
 1. Demolish the extension (as shown in the approximate location edged in blue on the attached plan).
 2. On completion of step 1 above, remove all materials and debris from the site.
- The period for compliance with the requirements are: one month the notice takes effect.
- 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 dismissed and the enforcement notice, subject to variations, is upheld as set out in the Formal Decision below.

The Notice

1. On an appeal, any defect, error, or misdescription in any enforcement notice may be corrected using the powers available in section 176(1)(a) of the Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant or local planning authority. It may be the case that defects are too fundamental to be corrected without causing injustice, leading to the notice being quashed.
2. The description of the alleged breach at paragraph 3 relates to the erection of an extension. However, the unauthorised development is clearly the erection of a structure and therefore it is appropriate to alter the description. In my view, no party would be caused any injustice or prejudice by the variation of the allegation to the erection of a structure as their representations to this matter would not change from those already provided. I will therefore vary the notice by deleting the words '*an extension*' from paragraph 3 and the word '*extension*' from Step 1 of paragraph 5 and their replacement with the words '*a structure*' and '*structure*', respectively.

The appeal on ground (a)

3. The ground of appeal is that planning permission should be granted for the breach of planning control stated in the notice. Having regard to the reasons for issuing the notice, the main issues are:-

- i) Whether the operational development accords with national and development plan policies which seek to consolidate commercial uses to within identified Town and Local Centres; and
- ii) the effect on the character and appearance of the host property, terrace and surrounding area.

Consolidation of commercial uses within identified Town and Local Centres

4. The appeal site sits outside of any identified Town or Local Centre. Policy INF5 of the Newham Local Plan (2018)(LP) sets out that town centre uses will be directed to the designated Town and Local Centres and it encourages the consolidation of existing commercial and community uses into defined centres. The supporting text to the policy explains that town and local centres operate as part of an inter-related network and hierarchy of retail and associated service provision, with changes to one having the potential to affect others over the space that people are prepared to travel in. A key component of this policy is that town centre related investment should be focused into centres, where the focus means it can have maximum effect on vitality and viability in terms of spend and qualitative impact. It goes on to state that existing out of centre development should be encouraged to either fall away or relocate into centres.
5. Policy SD6 of the London Plan (2021)(London Plan) has broadly similar aims and sets out that the vitality and viability of London's varied town centres should be promoted and enhanced by, among other things, ensuring town centres are the primary locations for commercial activity.
6. Although there is little information before me regarding the size of the floorspace occupied by the existing retail use, based upon my observations at the site visit, I observed that the unauthorised development had added a sizeable amount of additional floor space to the overall retail capacity of the premises. The unauthorised development enables goods to be displayed for sale to members of the public whilst being simultaneously stored within the structure. The addition of roller shutters to each of its open sides provides essentially what amounts to a permanent store for extra displays of goods.
7. Given the increased floorspace, the retail use is in my view, likely to compete with and divert business from other premises offering similar goods that are within designated town and local centres. It would be likely to result in a reduction in patronage and turnover of such premises within designated town and local centres as well as reduce footfall to these locations due to consumers procuring goods at the appeal property instead of travelling to a designated centre. The incremental effect of these types of development would be likely to have a detrimental effect on the strategic commercial centres if they are allowed to go unchecked.
8. For the reasons given above, I find that the unauthorised development conflicts with the development plan strategy to focus development to support and strengthen town and local centres and it would have a harmful effect upon their vitality and viability. Thus, the unauthorised development conflicts with LP Policies S1, S2, SP6, SP7, J1 and INF5 and Policies SD6 and E9 of the London Plan. Among other things, these policies seek to focus and support the provision of goods and services towards town and local centres in order to maintain a robust retail core, consolidate commercial uses within their

boundaries, to strengthen, promote and enhance their vitality and viability and, to not undermine them and reduce trade leakage.

9. For similar reasons, it would conflict with the National Planning Policy Framework (2021)(Framework) insofar as it aims to support the role that town centres play at the heart of local communities by defining a network and hierarchy of town centres to promote their long-term vitality and viability.

Character and appearance

10. Romford Road in the vicinity of the appeal site is characterised by a mix of properties of varying types, design and ages, albeit blocks of two storey terraced properties are commonplace. The area comprises a mix of residential and commercial uses with shop fronts predominantly at ground floor level set back from the edge of the footway and highway.
11. Given an established front build line together with the recurrence of modestly proportioned windows at the first floor level together with large shop frontages at the ground floor, these characteristics provide a rhythm and balance to the appearance of their front elevations.
12. There are some examples of structures and canopies within the vicinity that have been constructed beyond the front elevation of some shopfronts which enable the display of goods for sale and areas for eating and drinking. They are constructed in a mix of materials and include a variety of types and designs leading to a varied appearance and degree of permanence. I observed a number of these attached to properties within the host terrace. However, several included a retractable canopy without any supporting uprights which have a different effect. The development at the immediate neighbouring property is unauthorised and is currently the subject of an enforcement notice. Albeit 700 Romford Road includes a similar structure to that within the appeal before me, the prevalence of these types of structures is not so frequent as to make them a characteristic feature of the host terrace.
13. The unauthorised development at the appeal premises includes a number of thick profile metal upright poles supporting a metal roof canopy with advertising banners and shutters along the front and side edges of the roof. By reason of extending the full width of the appeal premises and projecting well beyond the front elevation of the premises towards the edge of the footway, the unauthorised structure breaks the common front build line and disrupts the uniformity and rhythm of the built form.
14. The metal structure has a substantial and permanent appearance with the roller shutters and advertising providing additional bulk to the development, particularly during hours when the shop is not in operation and the shutters are pulled down. Overall, its design and materials do not result in a successful transition from the existing building, nor are they considered to be of such high quality to justify a significant deviation of style and material. By reason of its prominent position, a design which includes a dark colour of frame and the inclusion of advertising, these matters all serve to draw the eye towards the unauthorised development and emphasise its inharmonious effect.
15. The overall result is that the development appears as an insensitive and dominant addition to the front of the host property which fails to relate well to its surroundings. Despite the shutters being open during operating hours, the

structure nonetheless adds visual clutter to the front of the property thus resulting in an untidy appearance which detracts from the established character and appearance of the host dwelling and terrace. Consequently, it appears as an incongruous feature within the streetscene.

16. The appellant has provided a number of photographs that show properties with a structure constructed to its front. It is not clear to me to which addresses these photographs relate to, however, a number of similar developments were visible when I carried out the site visit. However, there is little information before me relating to the particular circumstances of these developments and whether the circumstances are therefore comparable to the appeal proposal. In particular, the Council states that enforcement action has been taken in respect of a number of front extension structures along Romford Road. In the circumstances, a comparison is of little relevance and I have considered the appeal before me on its individual planning merits.
17. The presence of similar developments within the surrounding area, of which the appellant suggests several of these are poor quality, does not provide justification for the unauthorised development in question and, if anything, their presence points to a need for such proposals to be carefully controlled if the character and appearance of the area is to be safeguarded.
18. Accordingly, I conclude that the appeal scheme would erode the established character and appearance of the appeal property, the host terrace and wider area. It would therefore be contrary to LP Policies S2, SP1, SP3 and SP8 and London Plan Policies D1 and D4. Among other things, these policies seek a high quality development that reinforces local distinctiveness whilst securing integration and coherence with the local context.
19. In addition, there would be conflict with the Framework insofar as it requires development to be sympathetic to local character including the surrounding built environment to maintain a strong sense of place.

Other Matters

20. My attention has been drawn by the Council to an appeal decision at 660 Romford Road¹. Whilst I note that there are some similarities between that development and the appeal scheme before me, there are also some notable differences, including the size of the structure that was proposed in that instance. As such, the schemes are not directly analogous with each other, and a comparison is of limited relevance. As stated above, I have determined the appeal before me on its individual planning merits.
21. The unauthorised development is not located on highway land and no adverse impact on the flow and movement of pedestrians has been identified. However, the absence of harm is a neutral matter that weighs neither for nor against a proposal.
22. It has been put to me that the unauthorised development provides an opportunity to draw in customers which contributes to the success of the commercial business. Reference is also made to Romford Road experiencing high levels of activity and being comprised of small independent businesses that require investment and support. The Framework recognises the need to create conditions in which businesses can invest, expand and adapt and as

¹ Appeal Decision APP/G5750/Z/20/3265295

such, this is a matter that weighs in favour of the appeal scheme. However, it is set against the Framework's aims that require a network and hierarchy of town centres to ensure their vitality.

23. In this instance, I have found that the unauthorised development conflict with the Council's policies concerning the consolidation of commercial uses within identified town and local centres and it causes unacceptable harm to the character and appearance of the host building, terrace and surrounding area. The appeal scheme conflicts with the development plan and I find there are no material considerations of sufficient weight, either individually or cumulatively, that justify a decision other than in accordance with the development plan.

Formal Decision

24. It is directed that the enforcement notice is varied by:

- a) The deletion of the words '*an extension*' and the substitution of the words '*a structure*' from paragraph 3.
- b) The deletion of the word '*extension*' and the substitution of the word '*structure*' from Step 1 of paragraph 5.

25. Subject to the variations, 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 Act.

E Brownless

INSPECTOR