



Appeal Decision

Site visit made on 18 April 2024

by C J Leigh BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2024

Appeal Ref: APP/G5750/C/22/3312336

28 Windsor Road, Forest Gate, London, E7 0QX

- 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 appeal is made by Mr Mohammed Fayzur Rahman against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice, numbered 22/00102/ENFC, was issued on 4 November 2022.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a first floor rear extension.
 - The requirements of the notice are:
 1. Demolish the first floor extension (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) and return the affected elevations of the property to the form prior to the unauthorised works being undertaken.
 2. On completion of step 1 above, remove all materials and debris from the site.
 - The period for compliance with the requirements is six months from the date the notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(f) 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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Preliminary matters

1. The appeal under ground (f) is on the basis of an alternative scheme for the property. As there is an appeal under ground (a) I will address that under the ground (a) appeal.

Formal decision

2. The appeal is dismissed and the enforcement notice is upheld.

The appeal on ground (a) – the deemed planning application

3. The main issues here are the effect of the extension on the character and appearance of the Woodgrange Conservation Area and, secondly, on the living conditions of neighbouring occupants by virtue of outlook and light.

Character and appearance

4. I saw at my site visit the wider Woodgrange Estate is a Victorian suburb of fine buildings, fronting the regular street pattern of which Windsor Road is one such road. The large villas, set back from the road with a consistency of building lines, contribute to a strong residential character. The use of high quality brick and slate add to this character. These features can be seen from the street and from rear garden areas.

5. There has evidently been some insensitive development and alterations to properties and the area over the years, but the appearance of individual buildings and streets still remains as a good quality, Victorian suburb, and the character derives from that. The significance of the Conservation Area as a heritage asset derives from still clearly being a high-quality Victorian suburb.
6. The extension the subject of the enforcement notice is slate-clad at first floor on vertical elevations, and has a flat roof. This contrasts notably with the host property and others in the area, which are London stock brick with a simple pitched and hipped roof above the main house. The use of these materials, and the awkward juxtaposition of the flat roof as it joins the pitched roof, is discordant and not of high quality: it means the extension does not relate well to the architecture of the host property. This is visible in wider views along the rear of the row of houses, where I saw at my site visit there are no such other extensions at first floor. The form, scale and design of the extension is thus harmful to No. 28 and to the character of the wider area.
7. The general thrust of Policy D4 of the London Plan 2021 and Policies SP1, SP3 and SP8 of the Newham Local Plan 2018 is to require development to be of good design that responds to its context. The Newham Altering and Extending our Home Supplementary Planning Document 2018 (SPD) requires extensions to complement the character and appearance of the original house and group of buildings of which it forms a part. The Council have also produced the Woodgrange Conservation Area Design Guide 2022 which, amongst other matters, states that only single storey extensions are permitted. The SPD and the Design Guide are material considerations.
8. The extension is contrary to the above policies and guidance. Under s72 I have a duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The development is harmful to that character and appearance, and so harms the significance of the heritage asset.
9. Paragraph 205 of the National Planning Policy Framework states that great weight should be given to the conservation of heritage assets, and paragraph 206 says any harm to significance should require clear and convincing justification. I attach considerable importance and weight to this harm. That harm would be less than substantial and so, in accordance with paragraph 207 of the Framework, must be considered against the public benefit of the proposal. The works to the property are private benefits for an existing dwelling which, for the reasons given, are unacceptable. I therefore conclude that there are no public benefits arising from the proposed works that would outweigh the harm identified.
10. The appellant has referred to a number of properties in the wider area where there is a projection to the house at first floor. I have not been provided with details as to whether these were contemporaneous with the building of the house, or have been granted permission by the Council. In any event, I have determined this appeal on its own merits with regards to the host property and the context in which it sits. For the reasons given above, I have observed that the extension does not respect the context of the surrounding area, or the form and appearance of the host property. My conclusions on the first main issue therefore remain unchanged.

Living conditions

11. The extension lies on the boundary with the adjoining house of 28A Windsor Road. I saw at my site visit this is a narrow property with a relatively small garden. The appellant has submitted a study of lighting, which demonstrates that the windows to No. 28A would satisfy the recommendations set out by the Building Research Establishment. The Council have not disputed these results and, based on this technical assessment, I am satisfied that the first floor extension does not cause a material reduction in light.
12. However, the enforcement notice was also issued due to the alleged impact on outlook. I share the Council's concern on this matter. The extension has resulted in a two storey addition on the boundary with No. 28A which, as noted, is a narrow house on a narrow plot. I could ascertain from my site visit and from the information submitted to me that this has resulted in a rear addition which has a depth and height that is overbearing to No. 28A. In my assessment this leads to a materially harmful effect on outlook.
13. Policy D14 of the London Plan and Policies SP2, SP3 and SP8 of the Local Plan seek, amongst other matters, to ensure development does not harm living conditions. A similar objective is set out in the SPD and the Design Guide. The extension is contrary to these policies due to the overbearing effect and impact on outlook.

Other considerations

14. As part of the ground (f) appeal the appellant has put forward a proposed alternative scheme. This seeks to retain the extension with modifications through the replacement of the existing cladding with bricks and changing the flat roof to pitched, with detailed drawings having been provided to me. I am satisfied that those details in the proposal represents an alternative scheme that falls within the context of the breach constituted by the matters stated in the enforcement notice. Thus, as the proposed alternative scheme amounts to part of these matters, I must address the scheme.
15. The replacement of the slate hanging with brick and the pitched roof would address the harmful elements of the extension that arise from the inappropriate use of materials, and the visually jarring impact of the two roof forms. These changes to the appearance would mean that, although a first floor extension, it would integrate appropriately into the character of the wider area. This would represent compliance with Policy D4 of the London Plan and Policies SP1, SP3 and SP8 of the Local Plan, and guidance in the SPD and Design Guidance insofar as it relates to design matters. There would also be no harm to the significance of the heritage asset, as the character and appearance of the Conservation Area would be preserved and the duty under s72(1) would be satisfied.
16. With the massing of the extension remaining generally similar I also consider there would be no change to levels of light received to the neighbouring property which, as commented earlier, I found to be acceptable.
17. However, the proposed modifications to the extension would not address the harm arising due to the overbearing effect and impact on outlook to adjoining occupiers. The height and depth of the extension on the party wall would remain the same. I have commented earlier that it is these matters that lead to

harm, and so the same impact would similarly remain. Thus, the alternative scheme would be thus conflict with Policy D14 of the London Plan, Policies SP2, SP3 and SP8 of the Local Plan seek, and the SPD and the Design Guide. This harm and conflict with the outweigh my finding that the alternative scheme would address matters relating to character and appearance. Hence, the alternative scheme is not acceptable.

The appeal on ground (f)

18. An appeal on ground (f) is that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control, or to remedy any injury to amenity which has been caused by any such breach.
19. The appellant's case on this ground is the proposed alternative scheme, which I have considered earlier. As I have concluded that the scheme is not acceptable then the steps set out in the notice to demolish the extension and remove materials are necessary in order to remedy the breach of planning control and injury to amenity that has occurred. The appeal on ground (f) therefore fails.

Conclusion

20. 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 application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal decision

21. 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.

C J Leigh

INSPECTOR