
Appeal Decision

Site visit made on 15 October 2024

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2024

Appeal Ref: APP/G5750/C/23/3317434

Land at 119-121 Church Road, Manor Park, London, E12 6AF in the London Borough of Newham

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Raju Shibly of Darus Salaam Mosque Ltd against an enforcement notice issued by the Council of the London Borough of Newham ("the LPA").
- The notice was issued on 25 January 2023.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey rear extension.
- The requirements of the notice are:
 1. Demolish the single storey rear 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: three months.
- The appeal is proceeding on the ground set out in section 174(2)(b) of the Town and Country Planning Act 1990 (as amended) ("the Act").

Summary of decision: The appeal is dismissed, and the enforcement notice is upheld.

Preliminary Matters

1. The appeal is submitted solely on ground (b). However, the appellant's case is that the alleged breach of planning control in the Notice has planning permission. That argument is one to be considered in an appeal on ground (c). The LPA has nevertheless responded to the appellant's case, and no injustice would occur to either party should I consider the arguments. The issues related to grounds (b) and (c) are inter-related, and I have therefore considered them together.

The appeals on grounds (b) and (c)

2. Appeals on ground (b) are made on the basis that the alleged breach of planning control constituted by the matters stated in the Notice have not occurred. Appeals on ground (c) are made on the basis that those matters, if they occurred, do not constitute a breach of planning control.
3. The Land is a pair of terraced properties in use as a community centre and place of worship.
4. At my site visit it was clear that the erection of a single storey rear extension has occurred. The evidence suggests that was the case before the Notice was issued.
5. It is not disputed by the parties that the erection of the rear extension is a building operation on land, and is development for the purposes of Section 55 of the Act. I have not been advised of any certificate of lawfulness issued for

the development, and there are no 'permitted development'¹ rights for such extensions to places of worship. As such, the alleged breach constitutes development for which planning permission is required.

6. On 4 August 2019 planning permission (LPA reference: 09/01760/FUL) ("the planning permission") was granted for, "Demolition of existing rear extension and erection of single storey rear extension, combined with improvements to the first floor façade including render repair and re-painting". The planning permission was subject to conditions requiring commencement within three years, listing the approved plans, and specifying that the materials to be used in the construction of the external walls match those used in the existing building (rendered and painted in matching white).
7. The approved plans show the 'existing extension' as having the same length, width and layout as the approved extension, comprising an ablution area and WCs. It differed from the approved development in that it had a slim concrete block rear wall with a sloping roof.
8. In contrast, the development with planning permission was described as "The new rear extension" and a note on the plans states, "with cavity wall and similar render as it is on original building". A new flat roof is described as, "Flat roof warm deck with felt finish to match the existing flat roof". The approved development also has a taller rear wall than that shown as 'existing'.
9. Neither party have advised of the date the rear extension subject to the notice was constructed, but it appears to accord with the 'existing extension' shown on the plans submitted with the planning application. In particular, the rear breeze block wall had been painted white and had not been rendered, and did not appear to be a cavity wall. The roof remained a sloping roof, and the rear wall did not appear to be taller than the 'original' wall. The rear extension erected is therefore materially different to that approved, and is not the development for which planning permission was granted.
10. Consequently, the matters alleged in the Notice have occurred and constitute a breach of planning control. The appeals on grounds (b) and (c) therefore fail.

Conclusion

11. 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).

Decision

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

Peter White

INSPECTOR

¹ Under The Town and Country Planning (General Permitted Development) (England) Order 2015