
Appeal Decision

Site visit made on 8 September 2016

by Mrs H M Higenbottam BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 October 2016

Appeal Ref: APP/F5540/C/16/3145409
80 Swan Road, Feltham TW13 6ND

- 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 M Aharmed¹ against an enforcement notice issued by the Council of the London Borough of Hounslow.
- The enforcement notice was issued on 27 January 2016.
- The breach of planning control as alleged in the notice is 'Without planning permission the erection of a second single storey rear extension.'
- The requirements of the notice are:
 - i. Demolish the second single storey rear extension.
 - ii. Remove all resultant debris associated with the development from the land.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.

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

Procedural matter

1. Whilst an appeal on ground (a) was made the fee was not received in time. Therefore the appeal will proceed on ground (c) only.
2. A site visit was arranged for the 8 September 2016 by letter dated 1 September 2016. However, neither the appellant nor his representative was present at the appointed time. I am satisfied on the information available that I have adequate information to inform my decision on the ground (c) appeal. As such, I consider that a site visit is not necessary in this case.

Appeal on ground (c)

3. In appealing on ground (c), the burden of proof is firmly on the appellant to demonstrate on the balance of probabilities that the matters stated in the enforcement notice did not amount to a breach of planning control. The appellant considers that the erection of a second single storey rear extension is permitted development pursuant to Article 3 and Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015(GPDO).

¹ The appeal form states the appellant is 'Mr Aharmed'. However, all other correspondence from the appellant is signed off 'Mr Ahmed'.

4. Planning permission was granted on 24 April 2006 (Council reference 01100/80/P1) for the retention of a single storey rear extension to the house. This I understand to be the 'first' extension referred to by the Council and shown in the drawings submitted by the appellant. The appeal extension is shown projecting about 3m to the rear of the first extension and extending beyond the side wall of the original dwelling.
5. The appellant submitted an application (Council reference 001100/80/PA1) for prior approval under Schedule 2 Part 1 Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GDPO) (prior approval application). It was described as a ground floor rear extension 3 m deep, maximum height of 3.5m and 2.5m high to the eaves. It was refused on 8 September 2015. The reason for refusal was that it would be greater than half the width of the original dwellinghouse and would extend beyond the side elevation of the original dwelling and as such would fail to comply with limitation A.1.(j) of Class A of Part 1 of Schedule 2 of the GPDO.
6. On 16 October 2015 an Officer of the Council visited the appeal site and it was noted that a second rear extension was in the process of being built. It measured 5.87m wide and 3m deep. It was noted to be the same width as the first single storey rear extension at the property. The first extension was noted to be 3.3m deep.
7. In January 2016 a second prior approval application (Council reference 01100/80/PA2) was refused. This application was described as a ground floor rear extension 6m deep, maximum height of 3.5m and 2.5m high to the eaves. The reasons for refusal stated that the extension had been commenced prior to the submission of the application; the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the dwelling and would thus fail to comply with Class AA.1(j)(iii) of the GPDO, and that there was insufficient information to demonstrate that the total area of ground covered by extensions/additions at the property would not exceed 50% of the total area of the curtilage (excluding the aground are of the original dwellinghouse).
8. As such, for the appeal extension to be permitted development under Class A of Part 1 of Schedule 2 of the GPDO it would have to comply with all relevant provisions of the GPDO.

Paragraph A.1 (j) of Part 1 of Schedule 2 of the Order states that development is not permitted if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—

- (i) exceed 4 metres in height,
 - (ii) have more than a single storey, or
 - (iii) have a width greater than half the width of the original dwellinghouse;
9. The appeal extension extends beyond the flank wall of the dwellinghouse and thus extends beyond a wall forming a side elevation of the original dwellinghouse. It extends beyond the extent of the original rear elevation and is thus greater than half the width of the original dwellinghouse. As such, the appeal extension fails to comply with the limitations set out in paragraph A.1.(j) (iii) and cannot be regarded as permitted development.

10. In addition, as a result of the first extension the appeal extension extends beyond the rear wall of the original dwelling by more than 4m and the GPDO requires that certain actions are taken pursuant to paragraph A.4 before beginning the development. Although, the appellant submitted two separate applications pursuant to this paragraph, both were refused for reasons including that the development was not permitted development pursuant to Class A of Part 1 of Schedule 2 of the GPDO. As such, the appeal extension failed to comply with the requirements of paragraph A.4 which also means that it cannot be regarded as permitted development.
11. The Council has also raised concerns about whether the second extension complies with the limitations in paragraph A.1.(b). This requires that the total area of ground covered by buildings within the curtilage of the dwellinghouse does not exceed 50%. However, whilst the appellant states that the second extension does comply with this limitation, I do not have enough information to come to a conclusion on this point. In the light of my findings above, it is not necessary for me to conclude on this point in relation to the ground (c) appeal.
12. The single storey second extension failed to comply with all the relevant limitations of Class A of Part 1 of Schedule 2 of the GPDO and therefore required planning permission. As such, the appeal on ground (c) fails.

Formal Decision

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

Hilda Higenbottam

Inspector