

Appeal Decision

Site visit made on 20 October 2016

by Andrew Dale BA (Hons) MA MRTPI

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

Decision date: 9 November 2016

Appeal Ref: APP/W5780/C/16/3145556

Land at 52 Aragon Drive, Hainault, Ilford IG6 2TN

- 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 Mrs Jaspal Arora against an enforcement notice issued by the Council of the London Borough of Redbridge.
 - The enforcement notice was issued on 22 January 2016 under ref. E0625/13.
 - The breach of planning control as alleged in the notice is:
"Without planning permission;
 - a) the erection of a single storey side extension*
 - b) non matching materials to single storey side/rear extension."*
 - The requirements of the notice are set out as follows:
"(i) Set in the side extension by 1m from the boundary and setback by 1m from the front of the property.
(ii) Render the side/rear extension to match the existing dwelling,
(iii) Remove from the land all resulting building materials, rubble and debris arising from compliance with (i), & (ii)".
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended falls to be considered.
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Decision

1. It is directed that the enforcement notice be corrected by deleting the text within paragraph 3 in its entirety and substituting therefor the following text:
"Without planning permission, the erection of a single storey side and rear extension." Subject to that correction, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a single storey side and rear extension at 52 Aragon Drive, Hainault, Ilford IG6 2TN referred to in the notice.

Background and the enforcement notice

2. The land at 52 Aragon Drive is occupied by a two-storey, semi-detached house which has additional accommodation in a large roof-level addition at the rear. The property is situated within a residential area and stands on a corner plot at the junction between Aragon Drive and Boleyn Way.
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3. A single storey side and rear extension has been built in one building operation so as to wrap around the western (side) and northern (rear) elevations of the property. The relevant planning history reported by the Council indicates that a retrospective planning application for a single storey rear and single storey side extension and boundary wall was refused in December 2014 under ref. 1186/14. The reasons for refusal noted, amongst other reasons similar to those set out in the enforcement notice, that the submitted plans did not reflect the development which had been carried out on the site. Furthermore, the boundary wall is not directly before me in this appeal.
4. The enforcement notice is headed as operational development. Reading the substantive paragraphs of the enforcement notice – the breach of planning control alleged and the requirements – the Council seeks to address the physical extent of the side part of the single storey extension and the materials which have been used (yellow stock bricks) to construct the whole single storey side and rear extension.
5. The phrase “non matching materials” in part (b) of the breach of planning control would make more sense if there had been a breach of a condition requiring their use in a planning permission or a breach of the condition at paragraph A.3(a) in Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). However, no planning permission has been granted and GPDO rights do not apply because the rear extension is 3.70 m deep and because the enlarged part of the house extends beyond a wall forming a side elevation of the original dwelling and has a width greater than half the width of the original dwelling.
6. I have therefore taken the Council’s reference to “non matching materials” to be a criticism of the appearance of the single storey side and rear extension. It should not appear in the breach. The breach of planning control alleged should simply and more correctly read as “the erection of a single storey side and rear extension.” I can correct the notice accordingly as this would not lead to injustice to the parties. The requirements of the notice would be unaffected.
7. Within the part of the appellant’s statement headed THE SUBJECT OF THIS APPEAL, she draws a reader’s attention to the fact that, insofar as the rear part of the extension is concerned, the reasons for issuing the notice do not appear to tally with the breach as stated in the notice or with the comparatively modest requirement to render this part of the extension. The Council’s statement offers no clear explanation but it is the Council’s right and choice to underenforce. I have proceeded on the basis of the requirements set out in the notice, the operation of section 173(11) of the 1990 Act as amended and the evidence that has been put to me in writing.

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

8. Taking into account all I have seen and read, I consider that the main issue in this appeal is the effect of the development upon the character and appearance of the property and its surroundings.
9. The development plan includes the Redbridge Core Strategy (CS) and the Borough Wide Primary Policies (BWPP). In support of the general objective of securing development of high quality found within CS Strategic Policy 3 and

BWPP Policy BD1, BWPP Policy BD5 sets out detailed requirements for extensions to existing dwellings.

10. BWPP Policy BD5 says that planning permission will only be granted for extensions to existing residential properties where: they complement the character of the building, particularly in terms of scale, style, form and materials; they do not dominate the existing building in terms of size, scale or height; they incorporate a roof profile and materials sympathetic to the existing dwelling; and side extensions of detached or semi-detached dwellings do not create an unbroken or terraced appearance along the street frontage.
11. My decision has taken account of other material considerations including the National Planning Policy Framework (the Framework) and the Council's Householder Design Guide Supplementary Planning Document (SPD).
12. Whilst the appeal property undoubtedly occupies a prominent corner plot, the subject single storey extension, with a maximum rear depth of 3.70 m and a maximum width at the side of 2.52 m, is not particularly sizeable. In terms of its size, scale and height, it is not of such a mass that it dominates the existing building which appears somewhat top-heavy because of the extension to the roof. The most visible part of the development is the side extension; this incorporates a tiled roof with hipped ends which minimize the bulk of the roof and provide a style, form and roof profile sympathetic to the existing semi-detached property. The tiles are reasonably sympathetic to those that remain visible on the main roof. The side extension has not led to the creation of an unbroken or terraced appearance along the street frontage.
13. The Council aims to have the side extension set back 1 m from the front of the property and set in by 1 m from the boundary to Boleyn Way, and to have the whole extension rendered to match the existing dwelling.
14. Whilst the Council's SPD makes a plausible case for two-storey side extensions to be set back from the front wall of the original dwelling by at least 1 m, there is no similar requirement in the SPD for single storey side extensions. Even so, as the appellant explains the front of the side extension is set back 0.85 m from the brick pillar and first floor wall closest to the development and 1.40 m back from the main front wall. The front elevation contains a substantial bay window and I noted that the side extension is set back 2.10 m from the front of the bay window. The side extension integrates well with the front of the house and does not adversely affect the Aragon Drive street scene. I can find no justification for the side extension to be set back a further 1 m at the front.
15. The Council's SPD suggests that a single storey side extension should generally be set back at least 1 m from the side boundary on each side. The stated aims are to avoid encroaching on the adjacent property and to allow access to the back garden. However, the development does not encroach on the adjacent property and the appellant retains a gated access to the back garden from Boleyn Way.
16. The side extension does now form part of the side boundary to Boleyn Way. Whilst this siting does increase its visibility, it is seen alongside the brick boundary wall on the remainder of the site's frontage to Boleyn Way. It is not unduly intrusive in the Boleyn Way street scene, given its limited size and height and given that the original two-storey dwelling at no. 52 and the one at

- no. 54, on the opposite side of the junction, were built slightly in advance of the building lines along Boleyn Way. Setting the side extension in 1 m from the side boundary would produce an internal space of poor quality being little wider than a corridor and without any further specifications, may produce a roof form of inferior design and appearance. In three-dimensional terms the side extension as constructed is not sufficiently harmful to the character and appearance of the dwelling and the surroundings to justify such a requirement.
17. The use of yellow bricks in Aragon Drive is not unique to the appeal property. Bricks in various shades of yellow can be found at the western end of Aragon Drive beyond its junction with Cardinal Drive, admittedly on properties of later origins than the appeal property. The use of render is also widespread. The houses at nos 39 and 41 Aragon Drive, opposite the appeal property, have large sections of wall with yellow render. Since the appeal was lodged the appellant has given the rendered walls of the original house a yellow finish, a commitment she gave in her appeal statement.
18. Whilst section B2.3 of the SPD expects the materials for side extensions to match those of the existing house, Policy BD5 of the BWPP, which must carry the greater weight, is not so prescriptive since it says that extensions should complement the character of the building in terms of materials. I consider that the yellow stock bricks used in the construction of the extension are sufficiently complementary to the yellow render that now characterizes the main building. They also match the boundary wall along Boleyn Way. Applying a yellow render to the good quality bricks would not achieve any real visual benefit.
19. I find on the main issue that the development does not materially detract from the character and appearance of the property and its surroundings. It accords with the relevant development plan policies as well as with the Framework's policy of requiring good design.
20. The Council's statement offers no specific or detailed evidence about the alleged creation of a sense of enclosure to the neighbouring property at no. 50 Aragon Drive. I note that there have been no objections lodged in response to this appeal from the occupiers of that property. The extension is set in from the common boundary by a modest amount. With a rear depth of 3.70 m, there is some impact on the outlook from the nearest ground floor window at no. 50 but not to the extent that the extension creates an overbearing effect or an undue sense of enclosure.
21. Having regard to all other matters raised, I conclude that the appeal on ground (a) and the deemed planning application should succeed. It has not been suggested that any planning conditions should be imposed in this event and I consider that none are needed.

The appeal on grounds (f) and (g)

22. The enforcement notice has been quashed as a result of the success of the appeal on ground (a). Grounds (f) and (g) do not therefore need to be formally considered.

Andrew Dale

INSPECTOR