

## Appeal Decision

Site visit made on 25 October 2016

**by Paul Freer BA (Hons) LLM MRTPI**

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

**Decision date: 29 November 2016**

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**Appeal Ref: APP/T5150/C/16/3155995**

**Land at 62 Watford Road, Wembley, HA0 3ES**

- 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 Ramanathan Arulchelvan against an enforcement notice issued by the Council of the London Borough of Brent.
  - The notice was issued on 30 June 2016.
  - The breach of planning control as alleged in the notice is, without planning permission, the erection of a single storey rear extension onto an existing rear extension, and the erection of a porch and boundary walls to the front of the property.
  - The requirements of the notice are:
    - STEP 1 Demolish the unauthorised single storey rear extension.
    - STEP 2 Demolish the unauthorised porch
    - STEP 3 Demolish the unauthorised boundary walls
    - STEP 4 Remove all associated items, debris and materials arising from the demolition and all materials associated with the unauthorised development from the premises.
  - The period for compliance with the requirements is 6 months.
  - The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.
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**Summary Decision: The appeal succeeds in part and the enforcement notice is upheld as corrected in the terms set out below in the Formal Decision.**

### **Procedural Matter**

1. The appellant points out that the enforcement notice states the address of the land as 62 Watford Road, Wembley, HA0 3ES whereas the property has been divided with the benefit of planning permission into two self-contained flats, known respectively as Nos. 62 and 62B Watford Road. I accept that the latter more accurately describes the land subject to the enforcement notice. However, the enforcement notice clearly sets out the breach of planning control to which the notice relates. The appellant has clearly understood the breach of planning control alleged in the notice and the requirements to comply with it. I am therefore satisfied that I can correct the notice to refer to the subdivision of the property into flats without causing injustice to any party. I shall correct the notice accordingly.
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### **The appeal on ground (a) and the deemed planning application**

2. The ground of appeal is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The Council has stated three substantive reasons for issuing the enforcement notice, from which the following main issues are raised:

- the effect of the single-storey rear extension on the character and appearance of the host property
- the effect of the single-storey rear extension on the living conditions of the occupiers of neighbouring residential property at No 60 Watford Road, specifically in relation to outlook and light
- the effect of the porch on the character and scale of the host property, and on the street scene, and
- the effect of the side boundary walls on the character and appearance of the area.

#### *The effect of the single-storey rear extension on the character and appearance of the host property*

3. The appeal property is a two-storey semi-detached house that has been converted into two flats. The property has been previously extended at the rear at both ground and first floor levels, as well as at roof level. The single-storey extension subject to the enforcement notice is attached to the existing ground floor extension, resulting in a cumulative depth of some 6.47 metres. The extension spans practically the entire width of the building.
4. Although substantially extended subsequently, the host property was originally constructed as a modest semi-detached family dwelling. The addition of the further bulk resulting from the single-storey extension subject to the notice results in the dwelling as now extended being out of proportion with the scale and character of the building when first constructed. Notwithstanding the use of materials that match those of the main house, I therefore consider that this extension constitutes a disproportionate addition that is out of keeping with the character and appearance of the host property.
5. I note that the adjacent property at No 64 Watford Road has been substantially extended to the rear and in fact projects beyond the extension to the appeal property. However, the Council explain that the extension to No 64 was constructed under the provisions of Prior Approval and therefore constituted permitted development. Because the appeal property has been lawfully converted into flats, it does not benefit from the provisions under Prior Approval. Furthermore, in relation to the single storey rear extension, the Council's reason for issuing the enforcement notice specifically refers only to the effect on the character and appearance of the host property. There is no allegation that the extension harms the character and appearance of the wider area. Consequently, the presence of the extension to No 64 is of little consequence to my consideration of that main issue.
6. I conclude that the single-storey rear extension unacceptably harms the character and appearance of the host property. I therefore conclude that the single storey rear extension is contrary to Policies BE2 and BE9 of the London

Borough of Brent Unitary Development Plan (UDP). These policies require, amongst other things, extensions to be of a scale and massing that is appropriate to their setting. The development also fails to accord with the Council's Supplementary Planning Guidance No.5 "Altering and Extending Your Home" (SPG) which indicates that extensions should be designed to respect the character and size of the house, and specifically states that extensions to extensions are not usually acceptable.

*The effect of the single-storey rear extension on the living conditions of the occupiers of neighbouring residential property*

7. The neighbouring residential property at No 60 Watford Road has itself been extended at ground floor level, albeit to a lesser depth than the appeal property as now extended. There is a patio door in the rear elevation of the extension to No 60. This patio door serves a habitable room and is on the side closest to the appeal property. There is a further window and a door in this elevation. The part of the garden closest to the house is laid as a patio.
8. The single storey extension subject to the enforcement notice extends practically to the boundary with No 60 and extends considerably beyond the rear elevation of that property as extended. By reason of its height and depth, I consider that the extension is intrusive when viewed from No 60, particularly so from the habitable room served by the patio doors. For the same reasons, the extension dominates that part of the garden to No 60 that is laid to patio and significantly detracts from the value of that amenity space. I therefore consider that the single-storey extension unacceptably detracts from the living conditions of the occupiers of No 60 in relation to their outlook.
9. I acknowledge that the occupier of No 60 has indicated that they do not object to the extension at the appeal property although, on my reading, this does not extend to the point of supporting it as the appellant claims. In any event, planning seeks to protect the amenities provided by the property itself rather than those of any individual occupier. Subsequent occupiers of the property might take a different view on the outlook from this property and I have approached this issue on that basis. I have also had regard to the presence of landscaping on the boundary with No 60 although, in my view, this does not mitigate the effect the extension on the outlook from No 60.
10. The Council also contend that the extension results in a loss of light to the occupiers of No 60. However, the Council has produced no technical evidence in support of that. Given the presence of the openings in the rear elevation of the extension to No 60, in the absence of any such technical evidence I am not persuaded that the extension has resulted in an unacceptable impact on the living conditions of the occupier of No 60 in terms of loss of light.
11. I conclude that the single-storey rear extension unacceptably harms the living conditions of the occupiers of the neighbouring residential property at No 60 Watford Road, specifically in relation to their outlook. I therefore conclude that the single-storey rear extension is contrary to Policies BE2 and BE9 of the UDP. These policies require, amongst other things, that new buildings should be laid out such that they provide a satisfactory outlook for existing residents. The development also fails to accord with the Council's SPG, which indicates that extensions to semi-detached houses should not normally exceed 3 metres in depth.

*Effect of the porch on the character and scale of the host property, and on the street scene*

12. The front porch is a substantial structure which a prominent hipped roof over predominantly glazed elevations. The photographic evidence provided by the Council shows that the present structure replaced a simple canopy over the front doors to the flats, similar to those on the adjacent property.
13. I accept that the porch as constructed represents a significant change in the appearance of the front elevation of the building compared to the simplicity of the canopy that it replaced. In that context, I recognise that the new porch is not entirely in keeping with the character of the property as originally constructed. The front porch also projects forward of the bay window on the front elevation and in that respect does not accord the Council's SPG.
14. Nevertheless, the front elevation of the house is set back from the highway and the porch is constructed of good quality materials that match the host property. Furthermore, the porch does not connect with the bay window and thereby leaves that important original feature of the house unaffected. The front porch therefore accords the Council's SPG in that respect. Taking all these factors into account, I consider that the porch does not appear as a disproportionate addition to the house and does not unacceptably detract from the character of the host property.
15. I noted as part of my site visit that a number of other properties in this section of Watford Road feature front porches not dissimilar in scale and appearance to that erected at the appeal property. Having regard to the presence of these other porches, and again given that the porch is set well back from the highway, I consider that the porch does not significantly detract from the street scene.
16. I conclude that, on balance, the front porch does not unacceptably harm the character and scale of the host property, or the street scene. I therefore conclude that, overall, the porch accords with Policies BE2, BE7 and BE9 of the UDP and Policy CP17 of the London Borough of Brent Core Strategy in terms of being an appropriate design solution specific to the site's size and location. The development also accords with the Council's SPG in relation to front porches in some important respects.

*Effect of the side boundary walls on the character and appearance of the area*

17. The front boundaries of the properties along this section of Watford Road are typically delineated by low brick walls with a scalloped profile terminating in raised brick piers. The walls typically feature brick detailing on the scalloped section above brick panels. Although some properties, including the appeal property, have lost this feature over time, a significant proportion have retained it or a variation of the same basic design. This has given the street scene a degree of consistency and distinctiveness, and this makes a positive contribution to the character and appearance of the area. In contrast, side boundaries behind these walls are less consistent in form with a variety of fences, walls and landscaping treatments in evidence. However, these side boundaries generally share the characteristic of being restrained and not unduly prominent in the street scene.

18. I recognise that, whilst described as boundary walls, the walls constructed subject to the enforcement notice do not delineate the front boundary but rather are primarily intended to delineate the side boundaries, albeit with a short return on the front boundary. These boundary walls are, nonetheless, considerably higher than other boundary treatments and are finished in plain white render with no detailing on the outside surface and only minimal relief on the inside faces. These boundary walls therefore contrast markedly with the lower height and detailed brick finish of the front boundary walls typical in the vicinity of the appeal site, as well as the much more restrained appearance of other side boundaries. They are also, by reason of their height and stark appearance, visually intrusive not only in short views, but also in longer views for some distance along Watford Road.
19. The appellant has indicated that he would be prepared to provide additional landscaping to soften the appearance of the boundary walls. However, whilst there is space to accommodate landscaping within the site itself without compromising on-site parking, the boundary walls are practically on the boundary with the properties on either side. Consequently, there is not sufficient space to accommodate meaningful landscaping on the outside of the walls. I therefore consider that landscaping would not overcome the harmful effect of these boundary walls on the character and appearance of the area.
20. I conclude that the side boundary walls unacceptably harm the character and appearance of the area. I therefore conclude that the side boundary walls are contrary to Policies BE2, BE6, BE7 and BE9 of the UDP. These policies indicate, amongst other things, that a high quality of design and materials will be required for the street environment. The development also fails to accord with the Council's SPG, which indicates that the design of new boundary treatments should complement the character of the rest of the street. Furthermore, for the reasons set out above, the boundary walls fail to accord with the importance attached to good design in the National Planning Policy Framework.

*Conclusion on the ground (a) appeal*

21. Having regard to the above, I conclude that planning permission ought not to be granted for the single-storey rear extension or the boundary walls. The appeal on ground (a) therefore fails in those respects. However, the appeal on ground (a) succeeds insofar as it relates to the porch and planning permission will be granted in the terms set out in the Formal Decision below.

**The appeal on ground (f)**

22. The appeal on ground (f) is that the requirements of the notice exceed what is necessary. When an appeal is made on ground (f), it is essential to understand the purpose of the notice. Section 173(4) of the Town and Country Planning Act 1990 sets out the purposes which an enforcement notice may seek to achieve, either wholly or in part. These purposes are, in summary, (a) the remedying of the breach of planning control by discontinuing any use of the land or by restoring the land to its condition before the breach took place or (b) remedying any injury to amenity which has been caused by the breach. In this case, the requirements of the notice include the demolition of the single storey rear extension and the boundary walls. The purpose of the notice must therefore be to remedy the breach.

23. The appellant's case on this ground relates solely to the boundary walls: the appellant does not contest that the demolition of the single storey extension exceeds what is necessary to remedy the breach of planning control.
24. In relation to the boundary walls, the appellant has submitted a proposal to lower the height of the boundary walls to a height of 1 metre on both sides. The walls as proposed to be lowered are shown on a plan attached to the appellant's appeal statement and it would therefore be possible to ensure that the walls were lowered in accordance with that drawing through a variation to the enforcement notice. However, by reason of their stark appearance, the walls would still be inappropriate in their context compared with other boundary treatments in the area. Consequently, the amendment suggested by the appellant would not overcome the planning difficulties stated in the enforcement notice. Moreover, the proposed amendment would not remedy the breach of planning control that has occurred and therefore would not achieve the purpose of the notice.
25. Accordingly, the appeal on ground (f) fails.

### **Conclusion**

26. For the reasons given above, I conclude that the appeal should succeed in part only and I will grant planning permission for one part of the matter the subject of the enforcement notice, but otherwise I will uphold the notice with corrections and refuse to grant planning permission on the other part. The requirements of the upheld notice will cease to have effect so far as inconsistent with the permission which I will grant by virtue of s180 of the Act.

### **Formal Decision**

27. It is directed that the enforcement notice be corrected by deleting the address of "62 Watford Road, Wembley HA30 3ES" as the land or premises affected by the notice in Schedule 1 and replacing it with "Nos. 62 and 62B Watford Road, Wembley HA30 3ES".
28. The appeal is allowed insofar as it relates to the porch and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the erection of a porch at Nos. 62 and 62B Watford Road, Wembley HA30 3ES, as shown on the plan attached to the notice.
29. The appeal is dismissed and the enforcement notice as corrected upheld insofar as it relates to the single storey rear extension and the boundary walls. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the erection of a single storey rear extension and boundary walls at Nos. 62 and 62B Watford Road, Wembley HA30 3ES, as shown on the plan attached to the notice.

*Paul Freer*

INSPECTOR