
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: 30 November 2016

Appeal Ref: APP/T5150/C/16/3155974

Land at 19 West Hill, Wembley, HA9 9RN

- 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 Shi Ming Chen against an enforcement notice issued by the Council of the London Borough of Brent.
- The notice was issued on 29 June 2016.
- The breach of planning control as alleged in the notice is, without planning permission, the erection of a two storey side, and part two storey rear extension with flat roofs and the erection of a dormer window and gable end extension to the premises.
- The requirements of the notice are:

STEP 1 Demolish the unauthorised two storey side, and part two storey rear extension from the premises and remove all associated items, debris and materials arising from this demolition from the premises.

OR

STEP 2 Demolish the dormer window and gable end extension, and alter the two storey side and rear extension, so it complies with the plan. 19/HA9/AA/007 (B) attached to the notice.

- The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
-

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

Reasons

1. 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 one substantive reason for issuing the enforcement notice, from which the main issues are raised are the effect of the development on:
 - the character of the host property, and
 - the visual amenities of the surrounding area and the general street scene.

Character of the host property

2. The appeal property is a two-storey semi-detached house located on the north side of West Hill. The front elevation of the house features a full-height bay

window on one side with a front porch on the other, and is handed in relation to the front elevation of the house that comprises the other half of this semi-detached pair. As originally constructed, and as still exhibited by the adjoining house, the roof would have been hipped with only a short section of ridge.

3. The breach of planning control that has occurred has two distinct components: a two storey side and part two storey rear extension with flat roofs, and a dormer window and gable end extension. These two components are physically linked and I do not accept, as the appellant suggests, that these are separate extensions. This is a matter to which I shall return later. Nevertheless, for the present purposes, it is convenient to consider the two components separately in terms of their effect on the character of the house.
4. It is evident from the plans attached to the enforcement notice that, when originally constructed, this pair of semi-detached houses would have been externally identical in appearance, albeit handed in terms of their layout. As a semi-detached pair of houses, they would therefore have formed a symmetrical composition. Although there have been some minor alterations and there are differences in detail between the two houses, prior to the construction of the gable end extension this symmetrical composition would have remained evident.
5. The construction of the gable end extension has destroyed this symmetry and has fundamentally altered the original composition of this pair of semi-detached houses. It has also resulted in the loss of the hipped roof, one of the characteristic features of the original property. This extension has therefore significantly harmed the character of this house. The rear dormer exacerbates this harm in terms of the profile of the roof visible from West Hill being out of keeping with the original character of the property.
6. The two storey side and part two storey rear extension features a flat roof with a prominent parapet on the side. Although subordinate to the main house in terms of size and being constructed from similar materials, it is a bulky addition that has no meaningful relationship with the remainder of the house. It therefore appears as an unsympathetic and incongruous addition that also significantly harms the character of the host property.

Surrounding area and the general street scene

7. The street scene in West Hill is composed mostly of semi-detached houses that line both sides of the road. A number of these houses have been extended to the side, in some cases with gable end extensions that upset the symmetry of the pair. In other cases, the two-storey side extensions are subordinate to the main house, such that the original hipped roof form remains evident. Moreover, a significant number of the pairs of houses retain their original hipped roof form. Consequently, as a whole, the street scene in West Hill retains a tangible sense of the original form of semi-detached houses with hipped roofs which, in my view, it is important to protect.
8. By causing the complete loss of the original hipped roof, the gable end extension has replaced one of the features of the appeal property that made a positive contribution to the street scene. The loss of that feature reduces the proportion of properties that retain their original roof form and therefore detracts from the overall composition of the street scene.

9. The two storey side and part two storey rear extension is a bulky and incongruous feature that itself detracts from the quality of the street scene. In that respect, it can be distinguished from the side extensions to some other properties in West Hill which are subordinate to the main house and which feature well-integrated pitched roofs.

Conclusion on the main issues

10. I conclude that the two storey side and part two storey rear extension with flat roofs, as well as the dormer window and gable end extension, significantly harm the character of the host property and the visual amenities of the surrounding area and the general street scene. I therefore conclude that the breach of planning control is contrary to Policies BE2 and BE9 of the London Borough of Brent Unitary Development Plan which, amongst other things, require extensions to respect and satisfactorily relate to positive local design. The development also fails to accord with the Council's Supplementary Planning Guidance No.5 "Altering and Extending Your Home" which specifically states that flat roofs will not be acceptable on two-storey side extensions.
11. The development alleged in the enforcement notice also fails to accord with the importance attached to good design in the National Planning Policy Framework (Framework). In this context, the importance attached to good design in the Framework applies universally, and is not confined to conservation areas or development affecting other designated heritage assets.

Other Matters

12. The appellant contends that, if constructed in isolation, the two storey side and part two storey rear extension would be similar to that approved under planning permission Ref: 10/2098 and would therefore be likely to be granted retrospective planning permission by the Council. The appellant then goes on to suggest that the roof extension could be granted a Lawful Development Certificate, on the basis that no part of the dwelling would remain unlawful. Although not expressly stated as such, I take this to be submitted as a fallback position available to the appellant that justifies planning permission being granted for breach of planning control that has occurred.
13. However, it appears to me that there are several flaws in this argument. Firstly, as indicated above, I do not consider that the two components of the breach of planning control are severable. The eaves line of the flat roof to the side extension is higher than the eaves line of the main roof. It therefore appears to me that the two storey side and part two storey rear extension is structurally linked to and integral with the gable end extension to which it is attached. The appellant has provided no technical evidence to show otherwise, and for that reason alone I am not convinced that the two-storey side and part two storey rear extension can be properly considered in isolation.
14. Secondly, even if the two storey side and gable end extensions could be considered separately, there is no indication that the Council would grant planning permission for the two storey side and part two storey rear extension in isolation. Indeed, the Council say in terms in their evidence that permission is unlikely to be granted because the flat roof does not accord with the Council's Supplementary Planning Guidance No.5. The Council's evidence in relation to this element of the breach of planning control is entirely consistent with that position.

15. Finally, permitted development rights cannot be gained retrospectively and unlawful development cannot be modified so as to become permitted development. Consequently, even if the Council did grant planning permission for the two storey side and part two storey rear extension, then it would not be open to the appellant to apply for a Lawful Development Certificate for the dormer window and gable end extension.
16. It follows that the fallback position put forward by the appellant is in reality not available to him. Consequently, I attach little weight to that as a justification for granting planning permission for this breach of planning control. Indeed, I am not aware of any other considerations to indicate that the deemed planning application should be determined otherwise than in accordance with the development plan.

Conclusion on the ground (a) appeal

17. Having regard to the above, I conclude that planning permission ought not to be granted. Accordingly, the appeal on ground (a) fails.

Conclusion

18. For the reasons given above I conclude that this appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed planning application.

Formal Decision

19. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Paul Freer

INSPECTOR