
Appeal Decision

Site visit made on 22 November 2016

by D H Brier BA MA MRTPI

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

Decision date: 13 December 2016

Appeal Ref: APP/A5270/C/16/3148766

19 Lowfield Road, London W3 0AY

- 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 Savita Varma against an enforcement notice issued by the Council of the London Borough of Ealing.
- The enforcement notice was issued on 14 March 2016.
- The breach of planning control as alleged in the notice is the erection of a single storey dwelling.
- The requirements of the notice are:
 - a. Cease the use of the unauthorised development as a dwelling.
 - b. Demolish the unauthorised development in its entirety.
 - c. Remove all resultant debris.
 - d. Make good the damage to the main dwelling as a result of compliance with the remedial steps above.
- The period for compliance with the requirements is 3 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.

Summary of Decision: The appeal is dismissed and the notice is upheld with a variation.

Appeal on Ground (a) and the Deemed Application

Preamble

1. The development in question is a single storey addition attached to the eastern flank wall of No.19. The plans supplied by the appellant show the structure as a separate self-contained one bedroom entity with its own kitchen/dining area and bathroom. This, however, does not accord with the manner in which the accommodation was configured when I inspected the site, as I observed that the building in question contained 2 bedrooms.
 2. The appeal on this ground is prefaced by the comment that the appellant does not wish to pursue the change of use alleged in the notice. It is stated though that the appellant would like to keep the side extension and in the submissions on the ground (f) appeal I have been asked to consider proposed changes to the internal plan form of the structure. I return to this matter below.
 3. Besides asking me to consider the changes outlined in the preceding paragraph, I have been invited to grant planning permission for the side extension. This is something I must decline as the deemed application derives from the allegation – namely the erection of a dwelling. It is not open to me to
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determine the appeal on this ground on the basis of a different type of development, albeit the same structure is involved.

Planning Policies and Main Issues

4. Planning policies for the area are contained in The London Plan (TLP)¹, the Council's Development Management Plan (DMP) and their Supplementary Planning Document for Residential Extensions (SPD).
5. Both TLP Policy 3.5 and DMP Policy 3.5 seek to achieve high quality housing development and in particular that the minimum space standards set out in TLP Table 3.3 should be met. DMP Table 7D.2 sets out space standards for dwellings.
6. TLP Policy 7.4 states that development should have regard to the form, function and structure of an area and the scale, mass and orientation of surrounding buildings. Policy 7.6 seeks to ensure that development makes a positive contribution to the streetscape and that buildings should be of the highest architectural quality. In a similar vein DMP Policy 7.4 indicates that development should complement the street scene, building pattern, scale, materials and detailing. This approach is reflected in the SPD.
7. I consider there are 2 main issues. Firstly, whether the development provides satisfactory living conditions for existing and future residents, and secondly, whether the character and appearance of both the host property and the local street scene have been adversely affected.

Issue 1

8. Perhaps understandably in the circumstances, the appellant has not called the Council's objection to a dwelling in this location into question. More particularly the Council's assertion that the internal floor area of the dwelling is well below the minimum 61m² for this type of living accommodation set out in TLP Table 3.3 has not been challenged. Moreover, although access to No.19's garden can be obtained via one of the bedrooms, no separate private outdoor space appeared to have been specifically allotted to the dwelling. As No.19's kitchen door opens onto the outdoor space closest to the accommodation, this area is hardly private.
9. The accommodation is likely to result in some extra activity in the form of comings and goings and the like, but given its relatively modest size, this is unlikely to be unduly great. Indeed, there is no evidence that suggests that the use of the building as a separate dwelling has caused any problems to the neighbours. My view is that activity associated with the dwelling is unlikely to impinge seriously upon the living conditions of the neighbours.
10. The above finding is not, however, sufficient to allay my concern about the development. Due to the limited size of the dwelling and the apparent lack of genuinely private amenity space, I agree with the Council's conclusion that the development has resulted in an unacceptably cramped and substandard form of living accommodation. To my mind this is likely to have adverse consequences for the living conditions of the occupiers. As such, I find the scheme contrary to the relevant provisions of the development plan.

¹ Including minor alterations approved in March 2016.

Issue 2

11. The appeal property lies in an established residential area. It is the eastern half of a pair of hipped roofed semi-detached bungalows, a form of development that predominates in Lowfield Road. I note that prior to the erection of the dwelling, the land at the side of No.19 was occupied by a garage and a conservatory. However, this is not a matter to which I attach a great deal of weight as the removal of these structures and the subsequent erection of the disputed building marked a new chapter in the planning history of the appeal site.
12. No objection has been raised to the materials used on the external faces of the structure which are in keeping with those used on the main house. However, the form of the building, with its flat roofed design, does not sit comfortably with the hipped roof of the main body of No.19, an impression which tends to be compounded by the building in question being set at an angle to the main body of No.19 and extending in front of it. The incongruous nature of the building is compounded further by the relatively deep fascia and overhanging roof felt and the awkward looking junction between the roof of No.19 and that of the building. This impression tends to be emphasised as the junction between the latter and the former is part way up the slope of the hipped roof.
13. Contrary to the appellant's claim that the extension fits in well with the overall appearance of the main bungalow, the design shortcomings I have identified have combined to produce a visually jarring effect which tends to detract from the otherwise well-proportioned form of No.19. I accept that there are other instances of flat roofed side additions Lowfield Road, including those depicted on the appellant's photographs, and there is a similar structure next door at No.21. However, rather than providing justification for the development in question, if anything, these instances point to a need for development such as this to be carefully controlled in order to maintain and safeguard the appearance of what appeared to me to be a pleasant if unexceptional residential road.
14. My overall conclusion is that the development in question would have a detrimental effect upon the character and appearance of both the host dwelling and the local street scene. In this respect it would also be contrary to the relevant provisions of the development plan.
15. In the light of the foregoing, and having taken into account all the other matters raised, the appeal on ground (a) fails and planning permission will not be granted on the deemed application.

Appeal on Ground (f)

16. A good deal of the submissions under this heading concern the merits of the structure. These matters are distinct from the appeal ground (f), but have been addressed in my consideration of the appeal on ground (a).
17. As noted in paragraph 2 above, I have been asked to consider an alternative whereby the building would be retained, but would be adapted so that it became an extension to the main dwelling to which it would be linked internally. The appellant's plans indicate how the accommodation would be re-configured to provide an extra bedroom with ensuite facilities and a new utility room.

18. In certain circumstances adapting the accommodation so that it effectively augmented that in the main body of No.19, together with the proposed internal linkage, could help remedy the alleged breach. As such, this alternative is not without merit. However, as I have found the Council's objections to the appearance of the building well-founded, I am not satisfied that it would be appropriate for the notice to be varied in this manner.
19. It is not inconceivable that the building could be altered to make it more compatible with its surrounds without necessarily demolishing it in its entirety as the notice requires. But, as nothing has been suggested in this respect, this is not a matter to which I attach much weight. That said, mindful that section 173A(1)(b) of the 1990 Act gives the Council the discretion to vary the requirements of the notice if need be, it would still be open to the appellant to enter into a dialogue with the Council with a view to seeing if a mutually acceptable alternative solution could be found.
20. As I see it, the circumstances of this case are such that the requirements of the notice represent a reasonable response to the matters alleged in it. I do not find them excessive. Accordingly, therefore, the appeal on ground (f) fails.

Appeal on Ground (g)

21. The appeal on this ground is not because the compliance period is insufficient to allow the requisite works to be carried out, instead it focuses upon the obligations arising from the assured tenancy enjoyed by the occupiers of the dwelling.
22. I agree with the Council's view that contractual arrangements do not necessarily provide a weighty basis for assessing how a breach of planning control should be rectified. However, in this instance it seems to me that it is highly likely that the occupiers acted in good faith in entering into a tenancy agreement and would be faced with the need to move through no fault of their own. In these circumstances I consider the 3 month compliance period is unreasonably short. The 6 month period sought by the appellant would be a more reasonable period to help the tenants to look for somewhere else to live and to make any necessary arrangements. The notice will be varied accordingly. To this extent, therefore, the appeal on ground (g) succeeds.

Formal Decision

23. I direct that the enforcement notice be varied in section 5 by the deletion of "3 months" as the period for compliance and its substitution by "six months". Subject thereto I dismiss the appeal and uphold the enforcement notice as varied. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

D H Brier

Inspector