
Appeal Decisions

Site visit made on 28 February 2017

by Simon N Hand MA

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

Decision date: 03 March 2017

Appeal A: APP/T5150/C/16/3155774

4 Elton Avenue, Wembley, London, HA0 3EE

- 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 Kalaginy Jeyabalan against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice, numbered E/16/0290, was issued on 12 July 2016.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a "L" shaped extension to the rear of the premises as shown hatched in red in the approximate position on the attached plan.
 - The requirements of the notice are STEP 1 Demolish the "L" shaped extension to the rear of the premises. STEP 2 Remove all associated items, debris and materials arising from this demolition and remove 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), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/T5150/C/16/3155777

4 Elton Avenue, Wembley, London, HA0 3EE

- 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 Sabaratnam Jeyabalan against an enforcement notice issued by the Council of the London Borough of Brent and is identical to Appeal A except there is no ground (a)
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Decisions

1. The appeals are 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.

The Appeals on Ground (c)

2. This ground is that there has not been a breach of planning control. In this case the extension has been constructed and is clearly in excess of the permitted development allowances contained in the General Permitted Development (England) Order 2015. There is no dispute that the extension is unlawful and the appeal on ground (c) fails.
3. The appellant argues that she has made an application for a slightly different extension to regularise the situation, which I note has been refused by the Council. However, even had the application been allowed it that would not

have been relevant to a ground (c) appeal, which is only concerned with the extension referred to in the allegation.

The Appeal on Ground (a)

4. No 4 is a typical modest semi-detached house which originally had a lean-to garage attached. In 2003 an application was made to provide a typical 3m deep rear extension, the full width of the house, excluding the garage. This was granted by the Council but never implemented and is now time expired.
5. By 2016 the lean-to garage had been incorporated into the house and used as a bedroom. In 2016 a much larger extension, the subject of this notice, was built. This incorporates a slightly larger version of the 2003 extension (about 3.7m deep) which then wraps around behind the old garage element, leaving a corridor to access the rear of the former garage, and then continues down the garden with a narrow (about 2m wide) building about 6m long, used as I saw on my site visit for storage and as a bathroom.
6. A few days before the enforcement notice was issued an application was made to the Council for a revised version of the extension. The only difference was that the 6m long storage/bathroom building was separated from the rear extension by a 1m gap, and reduced in length accordingly. This was refused by the Council because the rear extension was too deep and too high and so was overbearing to neighbours and caused a loss of outlook, essentially the same reasons as the notice was issued. The now severed storage building was itself excessively long and tall, out of scale with the modest rear garden and visually obtrusive for the neighbours, whilst the whole caused a loss of amenity space by occupying nearly all the rear garden which would harm the amenities of future occupiers of the house.
7. The Council's policies are contained in the 2004 Unitary Development Plan. BE9 concerns architectural quality and requires extensions to be of a scale, massing and height appropriate to their setting and provide satisfactory amenity for neighbours and occupiers; BE2 requires proposals not to harm the character and appearance of the area.
8. As I saw, the rear garden is small and is now entirely dominated by the rear and side extensions, leaving a small patch of ground. The neighbours to the west at No 2 appear to have no rear garden and the space behind that house and immediately behind the side extension was being used for the parking of a van. The neighbours to the east, at No 6, have a small conservatory rear extension that is completely dominated by the large rear extension. These neighbours have an even smaller rear garden to which the mass of building work in the rear of No 4 is overbearing.
9. The extensions as built represent over-development of the limited space behind No 4 and are out of scale and harmful. They are thus contrary to policy BE9. While the character and appearance of the area was typically suburban residential, no other houses that I could see, seemed to have been so over-developed and the extensions also harmed the area contrary to policy BE2.

The Appeal on Ground (f)

10. The appellant says she is happy to reduce the size of the extension to 3m, but makes no comment on the storage building. I assume she means to retain that as shown in the 2016 application, but reduce the depth of the extension

itself. How this would work is not clear, as it would leave the element wrapped around the rear of the former garage unusually narrow.

11. The alterations proposed in the 2016 application do not go far enough to overcome the harm I have identified above. It is possible the original 2003 application scheme would still be acceptable, but I do not consider that would comprise "a part of" the matters alleged as required by the Act. The allegation identifies the breach as the erection of a large rear extension which is unlawful. No practicable alternative has been put to me that would overcome the Council's objections so there is no alternative to the requirement to demolish the unlawful structure. The appeal on ground (f) fails.

The Appeal on Ground (g)

12. The appellant refers to the need for time to sort the problem out by reducing the size of the extension. However she intends to do this, and I would suggest involving the Council at an early stage would be a sensible approach, she requests 6 months to do so. As that is the period already allowed in the notice there is no need to extend the compliance period and the appeal on ground (g) fails.

Simon Hand

Inspector