



## Appeal Decision

Site visit made on 13 February 2017

**by A U Ghafoor BSc (Hons) MA MRTPI**

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

**Decision date: 14 March 2017**

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**Appeal Ref: APP/T5150/C/16/3162791**

**12 Bassingham Road, Wembley, London HA0 4RL**

- 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 Act’].
  - The appeal is made by Mr Mansoor Hussain against an enforcement notice issued by the Council of the London Borough of Brent.
  - The enforcement notice, numbered E/15/0480, was issued on 20 October 2016.
  - The breach of planning control as alleged in the notice is without planning permission, the erection of a single side to rear extension and single-storey rear conservatory.
  - The requirements of the notice are to:
    - (1) Demolish the unauthorised development.
    - (2) Remove all items and debris arising from that demolition and remove all materials associated with the development from the premises.
  - The period for compliance with the requirements is six months.
  - The appeal is proceeding on the grounds set out in section 174(2) (b), (c) and (a) of the Town and Country Planning Act 1990 as amended.
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### Decision

1. The appeal is allowed on ground (a), the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act for the development already carried out, namely the erection of a single side to rear extension and single-storey rear conservatory on land at 12 Bassingham Road, Wembley, London HA0 4RL, referred to in the notice.

### Grounds (b) and (c)<sup>1</sup>

2. In appealing against operational development notice on these grounds, the onus of proof is firmly on Mr Hussain to show, on the balance of probabilities, that some or all of the matters stated in the allegation, had not in fact occurred by the time it was issued, or if they occurred do not constitute a breach of planning controls.
3. A completion certificate issued under the building regulations is noted but Mr Hussain’s evidence confirms that the building work roughly occurred at the same time. The appeal property has been extended and altered during the period leading to the issue of the notice. The nature and scale of the work involved in the construction of the extensions amounts to a single building operation and fall within the meaning of subsection 55(1) and (1A) of the Act.
4. Mr Hussain forcefully argues that express permission has already been granted for the subject extensions. For example, on 15 May 2012 permission was granted for the erection of a single-storey side extension (ref: 12/0772). The approved plans, which are listed in condition 2) of that permission, show conversion of a side garage

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<sup>1</sup> There is overlap in argument under these two grounds of appeal. I will evaluate them together.

into a study and side extension to the kitchen. He also refers to a certificate of lawfulness for proposed hip-to-gable end roof extension, erection of a rear dormer window, installation of two front rooflights and two single storey rear extensions.

5. A simple comparative exercise between the 'as built' extensions and approved schemes reveal some similarities, but also there are significant disparities. For example, the layout now includes a conservatory and that materially alters the external appearance of the building. Overall measurements show that this element is 6.85 metres by 3 m wide, 3.4 m high and eaves 2.8 m. The dimensions and location of the as built extensions combined with a change in their design and layout indicate that these deviations are not minor or trivial. The Council's assessment is plausible and I find the entire development to be substantially different from the schemes previously approved as it has not been built in accordance with the permissions relied upon by Mr Hussain.
6. The conservatory does not benefit from a deemed permission by virtue of permitted development ['PD'] rights in Class A of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development Order (England) 2015. This is because of its overall dimensions. Contrary to Mr Hussain's submission, the as built development forms a wrap-around addition to the host dwelling which does not benefit from deemed planning permission. My application of PD rights to the particular circumstances of this case is consistent with guidance found in the Department's *technical guidance titled Permitted development rights for householder* (2016).
7. I find that the matters alleged occurred in fact by the time the notice was issued. Deemed planning permission does not exist for the alleged matters and express planning permission has not been obtained. While the case for Mr Hussain has been elegantly advanced, on evidence, I conclude that grounds (b) and (c) must fail.

### Ground (a)

8. The appeal dwelling is a semi-detached property situated in a suburban residential area. I concur the subject development is of a design and scale that provides high level of visual amenity, because of the type of material used in the construction of the extensions. The latter complement the host dwelling and are visually in-keeping with the local suburban character. The Council is concerned about impact upon neighbours' residential amenities.
9. Against this background, the **main issue** is the effect of the development upon neighbours' living conditions, having particular regard to outlook.
10. The subject extension along no. 10 Bassingham Road protrudes 6.85 m and the built-form of the host building has considerably increased, due to the bulk and mass of the side and rear additions. Nevertheless, I take the view that the design, height and scale of the extension does not adversely affect outlook from the adjoining dwelling, because of its location and position relative to no. 10's rear elevation. Additionally, the conservatory is mainly a glazed structure and its design does not adversely obstruct light from reaching no. 10, including its garden. Likewise, the side-to-rear extension's location and layout does not have an adverse effect on the amount of daylight reaching habitable rooms to no. 14, due to orientation. Cumulatively, the extensions do not materially harm neighbours' quality of life.

11. The development already exists and there is no need to impose a commencement condition. The extensions have been carried out in materials that match the host dwelling.
12. Pulling all of the above points together, the development does not have a materially harmful effect on neighbours' living conditions. Accordingly, I disagree with the Council's planning assessment and find that the subject development complies with policy DMP1 of Development Management Policies, and satisfies guidance found in supplementary planning document no.5 *Altering and extending your home*.

### **Conclusion**

13. Having regard to all other matters, I conclude grounds (b) and (c) fail. I further conclude that the appeal on ground (a) should succeed and planning permission is therefore granted in the terms set out in paragraph (1) above.

*A U Ghafoor*

Inspector