
Appeal Decision

Site visit made on 21 February 2017

by Susan Wraith Dip URP MRTPI

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

Decision date: 22 March 2017

Appeal Ref: APP/W1905/C/16/3154819

64 Rushleigh Avenue, Cheshunt, Hertfordshire, EN8 8PS

- The appeal is made under s174 of the Town and Country Planning Act 1990 [hereafter "the Act"] as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Andres Failde against an enforcement notice issued by Broxbourne Borough Council.
 - The notice was issued on 4 May 2016.
 - The breach of planning control as alleged in the notice is: The erection of a first floor front extension above the existing garage and the construction of a first floor rear extension not in accordance with the approved details under planning permission ref. 07/15/0328/HF.
 - The requirements of the notice are:
 - (i) Restore the building to its pre-development condition by removing the first floor front extension above the existing garage and the first floor rear extension; and/or
 - (ii) Implement development in accordance with the approved plans attached to planning permission reference 07/15/0328/HF; and
 - (iii) Permanently remove from the land all rubble, rubbish and debris arising from compliance with (i) and (ii).
 - The period for compliance with the requirements is 9 months for points (i) and (ii).
 - The appeal is proceeding on the ground set out in s174(2)(a) of the Act. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under s177(5) of the Act.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under s177(5) of the Act for the development already carried out, namely the erection of a first floor front extension above the existing garage and the construction of a first floor rear extension not in accordance with the approved details under planning permission ref. 07/15/0328/HF on land at 64 Rushleigh Avenue, Cheshunt, Hertfordshire, EN8 8PS referred to in the notice.

Preliminary matters

2. The matters alleged in the enforcement notice are elements of a wider scheme for the conversion and extension of the roofspace to provide bedroom accommodation. The enforcement works have been undertaken in a manner materially different from the scheme which was granted planning permission, that permission being referred to in the notice.
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3. The front dormer, positioned in the central part of the roof, and the first floor extension to the western end of the front elevation have been carried out largely in accordance with the approved scheme. They are severable from the enforcement works and are not covered in the allegation. The deemed application takes its terms from the allegation which does not include these elements.
4. The planning permission remains extant. The requirements of the enforcement notice include a requirement to implement the development in accordance with the approved plans. Thus, the planning permission scheme provides the appropriate benchmark against which to assess the enforcement works.

The appeal on ground (a) and the deemed application

Planning policies and statutory requirement

5. The development plan policies to which I have been referred comprise H6, H8, HD13, HD14 and HD16 of the Borough of Broxbourne Local Plan Second Review 2001-2011 (2005). Taken together, these policies seek to deliver high quality design that protects the amenity of existing residential areas and maintains or enhances its character.
6. Planning law requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise¹.
7. Reference has been made to the National Planning Policy Framework [the Framework] which sets out the Government's planning policies for England and how it expects these to be applied at local level including through requiring good design.
8. The development plan policies referred to above, whilst pre-dating the Framework, are in general conformity with it.
9. Attention has also been drawn to Supplementary Planning Guidance 2004 (updated 2013) [the SPG] which, I am told, advises that extensions should compliment the parent building and be visually integrated. Whilst I have not been supplied with relevant extracts I have no reason to doubt the Council's account of what it says. The SPG is a further material consideration for the appeal.

Main issue

10. Having regard to the planning policies, submissions made by the parties and the previously approved scheme I consider the main issue in this appeal to be the effect of the extensions upon the character and appearance of the area.

Effect upon the character and appearance of the area-the first floor front extension

11. The approved scheme proposed a dormer, to the approximate width of the garage opening below and with a dual pitch roof rising to slightly below ridge level. The "as built" extension, which replaces the proposed dormer, largely follows the footprint of the garage. It rises in the vertical plane of the side elevation of the property, the ridge of its dual pitch roof meeting the existing ridge line. To that extent the "as built" scheme adds further mass. However, that does not necessarily mean it is harmful.

¹ S38(1) and (6) of the Planning and Compulsory Purchase Act 2004 and s70(2) of the Town and Country Planning Act 1990.

12. The extension, as seen in views from within and approaching the cul de sac, appears as a small forward projecting wing. It is not dissimilar to that at the west end of the elevation which is wider and deeper and in respect of which planning permission has been granted. Its roof pitch, form and materials accord with those of the existing property.
13. In terms of fenestration, the single window in the extension is of similar design and height to that which was previously approved and is centrally positioned above the garage opening. I cannot see that it offends the overall coherence of the fenestration of the front elevation most of which is either existing or is as granted permission under the approved scheme.
14. I acknowledge that the front elevation is not symmetrical, but neither would it be under the approved scheme. Nor is symmetry in design a particularly prevailing characteristic within the area generally.
15. Whilst not having quite the same degree of subservience to the parent property as the approved dormer window, the roof and form of the existing property still remain legible.
16. Being positioned at the edge of a pocket of bungalows (many of which are dormers) and within a wider area of mixed single and two storey dwellings of mixed roof forms I do not find the additional mass of this front roof extension to be harmful to the character and appearance of the area in the overall circumstances of this case.

Effect upon the character and appearance of the area – the first floor rear extension

17. The scheme as approved proposed first floor extensions to both sides of the rear elevation, rising in the planes of the existing rear and side elevations with dual pitch roofs meeting the main ridge. Within the small “in between” section of the existing roof slope a dormer window was proposed with a dual pitch roof rising to just below existing roof level.
18. The rear elevation “as built” fills the gap between the two extensions in brickwork topped by a flat roof section, giving the appearance of a single two storey extension spanning the width of the property with a raised eaves height. The rear elevation is mainly seen in views from the windows of properties to the rear, from neighbouring gardens and, obliquely, across the gardens of the neighbouring properties from Rushleigh Avenue and Hillside Crescent.
19. The approved scheme would itself have been predominantly two storey in appearance because of the two substantial first floor extensions to either side. The additional brickwork section, which has been undertaken in matching materials, does not unduly detract from the coherence of the elevation. Whilst a little less subservient to the parent dwelling than the approved dormer window I do not find undue harm to the character and appearance of the area when taking into account the distances between dwellings, the obliqueness and distance in views from the public realm and the position of the dwelling at the edge of the pocket of dormer bungalows within a wider area of mixed single and two storey dwellings of varied roof form.
20. In terms of fenestration, the single window in the additional brickwork section largely matches in design and height that which was approved for the dormer window previously. Whilst it is now positioned further forward, and just below the flat roof, it is seen in the context of the ridge height and remaining part of the

original roof and in horizontal alignment with the other windows as approved. I cannot see that there is any discernible harm in terms of fenestration.

Other matters

21. It has been suggested that the massing and bulk of the extension causes harm to the living conditions of neighbours in terms of outlook. The additional massing of the front extension is mainly to the roof at its side bringing the extension at first floor level closer to the boundary with number 66. However, it projects no further forward than the footprint of the parent property and that of the neighbouring property. I cannot see that the extension unduly affects outlook from the front facing windows of number 66.
22. With regard to the rear extension, the additional mass in the “in between” section again does not extend the dwelling’s footprint and is largely screened by the outer parts of the extension in side facing views. Whilst it would be seen from neighbouring gardens and the properties to the rear, when taking into account the distances involved together with some intervening vegetation and garden boundary features I do not find it to unreasonably affect outlook.
23. Effect upon outlook, therefore, is not a consideration which weighs against the development in this decision.

Conditions

24. The Council has suggested a condition to prevent the insertion of windows and openings in the flank elevations of the development in order to protect the privacy of neighbours. However, such a condition was not imposed on the previously approved scheme. Additionally, upper floor windows in side facing elevations are already controlled by conditions within the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)². I can see no justification in further restrictions. I therefore consider the suggested condition to be unnecessary and unreasonable.
25. There are no other conditions suggested by either party and none which I consider necessary.

Conclusions on ground (a) and the deemed application

26. On ground (a) I find no undue harm arising from the enforcement development when compared to the approved scheme. Neither do I find any conflict with the policies of the development plan.

Conclusion

27. For all the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted.

Susan Wraith

Inspector

² Part 1 Class A to Schedule 2, paragraph A.3(b) of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).