

Appeal Decision

Site visit made on 12 May 2017

by Andrew Dale BA (Hons) MA MRTPI

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

Decision date: 06 June 2017

Appeal Ref: APP/F5540/C/16/3150743

Premises known as 9B Maswell Park Road, Hounslow TW3 2DL

- 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 Jagtar Chokker against an enforcement notice issued by the Council of the London Borough of Hounslow.
 - The enforcement notice was issued on 20 April 2016 under ref. BWR/2014/00494.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a first floor side extension, rear dormer extension and hip to gable roof extension.
 - The requirements of the notice are to:
 - i. Remove the first floor side extension, rear dormer extension and hip to gable roof extension.
 - ii. Remove all of the resultant debris from the site.
 - The period for compliance with the requirements is three 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. The application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended falls to be considered.
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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 1990 Act as amended for the development already carried out, namely the erection of a first floor side extension, rear dormer extension and hip to gable roof extension at 9B Maswell Park Road, Hounslow TW3 2DL referred to in the notice.

Background

2. No. 9 Maswell Park Road was built as a semi-detached, two-storey residential property. The main building has been divided into two flats. Flat B or No. 9B now occupies the first and loft floors. There is a further self-contained residential unit in the rear outbuilding.
 3. The enforcement notice attacks a first floor side extension, rear dormer extension and hip to gable roof extension. The new roof leading from the original hipped end extends out over the first floor side extension. The northern flank wall of the property is now finished as a flat gable end. The rear roof extension takes the form of a flat-roofed dormer.
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The appeal on ground (c)

4. The appeal on ground (c) is that the matters stated in the notice which give rise to the alleged breach of planning control do not constitute a breach of planning control. This might be because no development was involved or because planning permission has already been granted or because it is permitted development. The burden of proof in a legal ground of appeal like this rests on the appellant. The relevant test of the evidence is on the balance of probabilities.
5. The appellant does not claim that the works were carried out pursuant to permitted development rights, but rather under the terms of an express grant of planning permission. I have been referred to a full planning permission granted on 30 May 2003 under ref. 00747/9/P1 for the erection of a two-storey side extension, single-storey rear extension, roof extension and front porch to the then single dwelling at no. 9 Maswell Park Road. There appears to be agreement between the parties that a single-storey rear extension was constructed in 2003 and that the permission was then capable of being completed in accordance with its terms.
6. However, it is clear to me from studying the plans approved in 2003 that the hip to gable roof extension, the flat gable end to the first floor side extension and the significantly larger rear roof dormer that have been built at the appeal property do not fall within the scope of the construction permitted under ref. 00747/9/P1. This permission, in my judgement, does not therefore include the developments the subject of the enforcement notice.
7. There is agreement between the parties that permitted development rights are of no assistance to the appellant's case. For one thing, such rights do not apply to flats.
8. I have had regard to all other matters raised under ground (c) but I conclude on the balance of probabilities that the operational developments alleged in the notice amount to a breach of planning control. The appeal on ground (c) fails.

The appeal on ground (a) and the deemed planning application

9. There is an extensive planning history for the appeal property, which I have noted, but this appeal originates from the issue of the enforcement notice. In assessing whether planning permission ought to be granted for what is alleged in the notice, I consider that from reading the reasons given in the notice the main issue for consideration is the effect of the developments upon the character and appearance of the host property and its surroundings.
10. The development plan includes the London Plan and the Hounslow Local Plan. The Council does not rely upon any policies from the London Plan. The relevant Local Plan policies cover context and character (Policy CC1), urban design and architecture (Policy CC2) and residential extensions and alterations (Policy SC7). The National Planning Policy Framework says that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
11. Design guidance is provided in the Council's Residential Extension Guidelines (REG). The information supplied by the Council with its questionnaire did not

extend to including a copy of the REG despite an indication that it would follow the questionnaire by post. The Council was given an opportunity in April 2017, shortly before my site inspection, to consider the extent of the questionnaire documents submitted to the Planning Inspectorate. No further documents were submitted. I have therefore relied upon the extracts of the REG set out in the appellant's statement of case (September 2016). Their accuracy has not been disputed by the Council at the final comments stage.

12. Paragraph 5.22 of the Local Plan indicates that the scope for the scale and appearance of an extension should reflect the building, setting and local context and character rather than the achievement of a borough-wide uniform "standard". With that in mind, I found that the part of the Maswell Park Road street scene where the appeal property is found does not have a particularly well-defined character or possess any positive local distinctiveness. Two pairs of semi-detached residential properties (nos 3, 5, 7 and 9) are sandwiched between a building (at no. 1) that offers plumbing and heating supplies and a large industrial building and associated yard at no. 15 (adjacent to no. 9 and extending back as far as Hounslow Gardens to the east). The closest part of that adjacent site is put to use as a motor vehicle repair and MOT garage. The road bends sharply outside this garage. On the opposite side of Maswell Park Road an embankment separates the road from Whitton Road which passes by on a roughly parallel alignment at a higher level.
13. Any visual coherence this part of the street scene may possess is limited to the two pairs of semi-detached properties and even then in a number of views from Maswell Park Road and Whitton Road they are partly masked by attractive street trees or by other mature vegetation along the embankment.
14. At the other half of the semi-detached pair, no. 7, a hip to gable extension has been built. There has been no suggestion from any party that this development is unlawful for any reason. The hip to gable roof extension at no. 9B actually restores balance to the overall roof form of the semi-detached pair, in accordance with the advice in section 5.0 of the REG.
15. As the Council points out in its statement, the ridge over the first floor side extension is level with the extended ridge of the original building. Setting down the roof ridge over a first floor or two-storey side extension from the main roof ridge is a common design approach which helps towards ensuring that such a side extension remains secondary in its size and appearance. The appellant makes a valid point that whilst a number of illustrations in part 4.0 of the REG show side extensions with lower ridge heights than the ridge over the main dwelling, the REG contains no written requirements for this as such.
16. The REG says that "The height and width of these side extensions should be proportionate to the dimensions of the main house. The width should be significantly less than the width of the main house (pic 4.01)." No similar specific written guidance is provided for height to indicate what height would normally be considered proportionate to the dimensions of the main house.
17. I find that other factors are in play here which ensure that the first floor side extension is sufficiently subordinate to the existing building. This extension is relatively narrow. Its width does not even come close to half the width of the original building. In addition, the first floor side extension is set back one

metre from the main front wall of the building, such that the original proportions of the building remain the dominant feature. It achieves an acceptable sense of subservience.

18. In order to ensure that the design, style and angle of the roof over the first floor side extension matches the main roof, the appellant has set its front eaves about one metre above the front eaves on the main building. The height of the eaves is referred to in the reasons for issuing the notice but is not expanded upon in the Council's statement. To some extent it is reflective of the higher tiled finish to the roof of the ground floor porch directly below when compared to the lower adjacent tiled bay across the front of the original building. As such, I do not consider that the higher eaves leads observers to perceive the extension as one that is unduly uncomfortable or unsympathetic or lacking in subservience or causing any serious disturbance to the balance of the semi-detached pair at nos 7 and 9.
19. The Council's statement does not provide any detailed commentary about the flat-roofed rear dormer. There is a large flat-roofed rear dormer at no. 7. The subject rear dormer at no. 9B is not as wide as the building as enlarged. It is set down from the ridge and positioned well above the eaves. It is set in from the boundary with no. 7 and a notable distance away from the northern gable end. The two windows in it roughly match the windows at first floor level below. I found on my site inspection that the rear dormer has a negligible impact upon the Maswell Park Road and Hounslow Gardens street scenes and does not harm the existing character and appearance of the building or area.
20. All the operational developments the subject of the notice have been constructed of materials which complement the original building in terms of materials, colours and finishes.
21. I have taken into account all other matters raised. I have noted the absence of objections from neighbouring occupiers in response to this appeal. I find nothing to alter my conclusion on the main issue that the developments do not materially detract from the character and appearance of the host property and its surroundings. There is respect for the relevant development plan policies.
22. The Council and the appellant acknowledge that the developments do not have any adverse impacts upon the amenities of the occupiers of any neighbouring properties. I share that view.
23. The Council has not suggested any planning conditions in the event of the appeal on ground (a) succeeding and I consider that no planning conditions need to be imposed. I conclude that the appeal on ground (a) and the deemed planning application should succeed. Planning permission will be granted.

The appeal on grounds (f) and (g)

24. The enforcement notice has been quashed as a result of the success of the appeal on ground (a). Grounds (f) and (g) do not therefore need to be formally considered.

Andrew Dale

INSPECTOR