
Appeal Decision

Site visit made on 11 July 2017

by Paul Dignan MSc PhD

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

Decision date: 24 July 2017

Appeal Ref: APP/T5150/C/17/3170592
64 Brampton Grove, Wembley, HA9 9QU.

- 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 Waleed Al-Temimi against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice, numbered E/16/0534, was issued on 7 February 2017.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a rear conservatory extension onto an existing single storey extension, and the erection of a raised patio area to the rear of the premises.
 - The requirements of the notice are: Step 1 Demolish the unauthorised extension, and demolish the raised patio area at the rear of the premises, and Step 2 Remove all debris and items 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) and (c) 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 Act as amended also falls to be considered.
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Decision

1. The appeal is 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.

Ground (c)

2. This ground is that what has occurred is not a breach of planning control. The argument is made in respect of the conservatory. The appeal property is a 2-storey semi-detached house. It has a single storey side and rear extension, erected pursuant to planning permission Ref. 13/2911. This extension extends 3m from the rear of the original house. The conservatory is attached to the side/rear extension and extends a further 2.7m, a total of 5.7m from the rear of the original dwelling.
3. The appellant considers that the conservatory is an extension permitted by Schedule 2, Part 1, Paragraph A1(g) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). This grants planning permission for rear extensions of up to 6m for semi-detached houses. However, the conservatory does not benefit from this provision for a number of reasons. Crucially, the property lies within the Barn Hill Conservation Area, which is land designated under Article 2(3) of Schedule 1 to the GPDO. Article 2(3) land does not benefit from the Schedule 2, Part 1,

Paragraph A1(g) provisions. Even if that was not the case, Paragraph A1(g) extensions are subject to a prior approval procedure before commencement, which did not occur here. Permitted development rights cannot be sought retrospectively. Furthermore, the extension is attached to a part side extension, again excluding it from the relevant GPDO provision (Paragraph A.2(b)).

4. So far as it concerns the patio, for the purposes of the GPDO this is a raised platform, due to its height exceeding 0.3m. As such it is excluded from development permitted by Schedule 2 Part 1 Classes A and E.
5. No part of the development is GPDO permitted development and it therefore requires planning permission. For this reason the appeal on this ground cannot succeed.

Ground (a)

6. This ground is that planning permission should be granted for the development. The main issue in this case is the effect of the development on the living conditions of the occupiers of the neighbouring dwelling in terms of loss of outlook and privacy. Policy DMP1 of the Council's Development Management Policies Document 2016 expects development to provide high levels of amenity, and further detailed advice is set out in its adopted Supplementary Planning Guidance No. 5 – Altering and Extending your Home (SPG5), which seeks amongst other things to ensure that any extension or alteration does not have an unacceptable impact on neighbours.
7. The appeal property is on sloping land, falling away to the rear. It is also on higher ground than its neighbour at No 62. The erection of the raised platform on which the conservatory sits has resulted in a substantial height difference between the land at the rear of No 64 and that at No 62. From the patio part extending beyond the conservatory there are views directly into the rear garden of No 62 from a relatively high vantage point, which has the effect of severely diminishing the privacy afforded to its occupiers. The conservatory has an opaque panel on the side facing No 62, which precludes overlooking from within, but it is close to the boundary and extends well forward of, and sits well above, a habitable room window at the back of No 62. From my observations I consider that the presence of the conservatory is likely to significantly harm the outlook from that window. Further, I consider that its presence close to the boundary and on much higher ground is likely to appear as intrusive, overbearing and oppressive to users of the patio area at the rear of No 62. Removing the patio and retaining the conservatory, as suggested by the appellant, would not fully remedy the harm to the amenity of No 62, which would still have its outlook significantly adversely affected.
8. Overall I consider that the development comprising the extension and platform/patio have unacceptably diminished the living conditions of the occupiers of No 62 in terms of privacy and outlook. As such it conflicts with Policy DMP1 and the guidance in SPG5. Accordingly, having considered all other matters raised I conclude that the appeal on this ground should be dismissed and planning permission refused.

Paul Dignan

INSPECTOR