



Appeal Decision

Inquiry Held on 20 June 2017 and a site visit was made on the same day

by Mrs H M Higenbottam BA (Hons) MRTPI

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

Decision date: 28 July 2017

Appeal Ref: APP/R5510/C/16/3160812

128 Long Lane, Hillingdon, Uxbridge UB10 0EH

- 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 Ms Rahila Jain against an enforcement notice issued by the Council of the London Borough of Hillingdon.
- The enforcement notice was issued on 23 September 2016.
- The breach of planning control as alleged in the notice is 'Without planning permission, the development of a single storey second generation rear extension conservatory.
- The requirements of the notice are:
 - i. Demolish and remove the single storey second generation rear extension conservatory shown outlined in blue on the plan attached.
 - ii. Remove from the land all debris, waste, building materials, plant equipment and machinery resulting from the demolition works.
- The period for compliance with the requirements is three calendar months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (d) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections and variations.

The Notice

1. The Council record that a report relating to an unauthorised second generation rear extension conservatory was received by it in June 2009. A site visit was undertaken on 3 July 2009 to view the extension. On 9 July 2009 a letter was sent by the Planning Enforcement Officer requiring the structure to be removed. Subsequently the appellant submitted a retrospective planning application for the retention of the structure. This was refused on 2 November 2009. A subsequent appeal¹ was dismissed on 2 June 2010.
2. The Planning Enforcement Officer wrote the appellant on 9 June 2010 confirming that the planning appeal had been dismissed and requiring the conservatory to be removed.
3. On 30 September 2010 a Planning Enforcement Officer inspected the appeal site and established that the conservatory had been removed. The enforcement case was closed and the photographs of the conservatory having been removed were retained. However, I note that the photographs of this site visit show that the roughly 'U' shaped plinth structure was still in situ.

¹ Reference APP/R5510/D/10/2120737.

Therefore only the glazed panels and frames, rear doors and the roof of the conservatory had been removed in September 2010.

4. Both parties accepted at the Inquiry that the roughly 'U' shaped plinth structure was not removed in 2010. I will therefore correct the Notice to only attack the glazed vertical panels and frames, rear doors and frame and roof structure as these were erected on top of/between the retained low level plinth structure. I will vary the requirements to only require the removal of these structures.
5. I will also vary the allegation to include reference to the attached plan with the development outlined in blue on it.
6. These corrections and variations would not result in injustice or prejudice to either party.

Procedural Matters

7. All oral evidence was given under oath or affirmation.

Appeal on ground (d)

8. In appealing on ground (d), the burden of proof is firmly on the appellant to demonstrate, on the balance of probabilities that the development was lawful through the passage of time when the enforcement notice was issued. For that to succeed the glazed vertical panels and frames, rear doors and frame and roof structure would need to have been substantially complete for 4 years. The material date is 23 September 2012.
9. The appellant gave oral evidence that she bought the property in 2005 and it had a conservatory to the immediate rear elevation. In 2008 a wraparound single storey extension was built. It took about three months. After this was completed a conservatory was added.
10. In June 2010 an appeal was dismissed for 'a retrospective single storey rear conservatory' at No 128. The appellant states that following that decision she demolished the conservatory. No exact dates for the demolition of the conservatory are given but under oath she stated that the pieces of the conservatory were kept under green sheeting.
11. Sometime later the appellant states she contacted the Council who she remembers said she could rebuild the conservatory if her neighbours agreed. No details of who the appellant spoke to or which department she contacted have been provided.
12. The appellant then states she asked permission from the neighbours at No 126 and No 130. No details of when she contacted her neighbours has been provided or what she asked of them or whether or not what has been built was what was discussed.
13. A letter dated 10 November 2016, from Mrs M Blackstone with an address of 126 Long Lane Hillingdon Middx UB10 0EH states that the appellant has had a conservatory in place for over five years i.e. since before November 2011, and that it causes no issue to her. Mrs Blackstone did not attend the Inquiry. The occupier of No 130, Miss Didi, gave oral evidence that the appellant did not speak to her about the conservatory being re-erected. The appellant states that she did.

14. The appellant's daughter stated that the conservatory was built in 2011, and she was 14 years old at that time and she remembers it because at her 15th birthday party, in February 2012, those attending ate in the conservatory. She stated it took a day to build, while she was at school. She remembered it had been taken down at some stage but could not remember when that was.
15. The appellant states that the conservatory was rebuilt at the end of 2011. A copy of an invoice from Reliance Home Improvements with a description of 'Labour arrangement conservatory repair' for £925 has been submitted. There are no details of what the repair entailed or the date the works were actually completed. The customer name is stated to be Mrs Rahila Jain at 128 Long Lane. It is dated 7 December 2011. The invoice does not confirm at what address the conservatory repair was carried out.
16. The appellant confirmed she owns another property in Hayes and has done so for over 20 years. Ms R Jain stated that the Hayes property has no conservatory.
17. Ms Boatswain was fostered by the appellant from February 2012 to May 2013. She gave oral evidence that there was a conservatory at No 128 at the time she moved in to No 128 in February 2012. Amongst other uses the conservatory was used for gatherings and storage and Ms Boatswain considered it was a valuable extension.
18. Mr Ahmed, a friend, gave evidence that he visited the appeal site once or more a week. The first conservatory was in place in 2008/9. He introduced the builder, Raj Singh, to the appellant. He stated the building company had a very famous name something like 'Relia'. The conservatory was stated to be in situ when his wife came to England in December 2011. Mr Ahmed initially stated in oral evidence that following a snow fall the conservatory roof was leaking and he fixed it by putting timber posts in the roof in January 2011. This date was changed after the appellant intervened and the date was then given as January 2012. His evidence of dates was contradictory and he relied on the appellant to confirm/correct dates during his oral evidence. I found the evidence of Mr Ahmed ambiguous and imprecise.
19. Miss Didi gave evidence that she moved to No 130 in August 2010. At that time there was a conservatory and aluminium reflective sheeting on the flank elevation facing her property, which restricted views of her properties rear windows. In December 2010 she moved out of No 130, which she owns, but did not know when the conservatory had been removed. She moved back into the property in August 2013. There was no conservatory at that time to the rear of No 128. In April 2014 Miss Didi rang the Council stating that a conservatory had been built at No 128. This complaint was not logged by the Council and no action was taken by the Council.
20. In 2015 Miss Didi says she called the Council again. In 2016 she spoke to a number of people in the planning department. The Council recorded that Miss Didi contacted the Council in June 2016 about the conservatory.
21. The Council rely on an aerial photograph of the appeal site dated 25 May 2012 which it states shows the appeal property without a conservatory. The Council states that a later aerial photograph dated 2015 shows the conservatory in situ. At the Inquiry I viewed these images on a laptop computer which had

greater definition than the printed photographs provided in evidence. The appellant and witnesses also viewed these images during their oral evidence.

22. In response to the aerial photographs the appellant and her witnesses accept that the 2015 image shows the conservatory. However, they do not accept that the 2012 image shows no conservatory. Mrs Jain stated a black sheet was put on the roof of the conservatory to stop rain but no details of when that might have been or for how long was provided or how that related to the image in 2012, were given. No other witnesses referred to black sheeting on the roof. However, none of the appellant's witnesses could provide any coherent reason why the two images were distinctly different at the location of the appeal structure.
23. I consider that the aerial images clearly show the first generation extension and change in roof materials on the mono-pitch roof. Furthermore, on close examination, I am satisfied that there was a conservatory in place in the 2015 image and that what was on the ground and shown in the 2012 image was significantly different from that which existed in the 2015 image. There was no clear structure in the 2012 image, and no real differentiation between the area where the conservatory is now and the rest of the area directly adjacent to the rear elevation of the first generation extension. In my view, this clearly shows that there were no glazed vertical panels, frames, rear doors or frame and roof structure in the May 2012 aerial image and that the 2015 aerial image clearly shows the structure as it is now.
24. While the appellant and other witnesses all gave evidence that the conservatory was erected in 2011, there was no corroborative evidence. Documentary evidence was inconclusive i.e. the invoice from Reliance Home Improvements was not clear where or when the works were carried out and is therefore imprecise and ambiguous. The evidence of Mr Ahmed was confused and he was unable to recall dates or years without intervention from the appellant. The evidence of the occupier of No 130 contradicted the time scales set out by the appellant's evidence and that of her witnesses. In addition the aerial images support the time line set out by the occupier of No 130, which is the conservatory was rebuilt at some point between June 2012 and 2015.
25. I therefore find, on the balance of probabilities, that there were no glazed panels and frame or doors and frame or roof structure on the roughly 'U' shaped plinth structure to the rear of the first generation extension in the 2012 aerial image. The evidence provided by the appellant, her daughter and Ms Boatswain are generally consistent with one another while their time line is contradicted by the occupier of No 130. I therefore find, weighing all the available evidence, that on the balance of probabilities, the glazed vertical panels and frames, rear doors and frame and roof structure were constructed sometime between 25 May 2012 and 2015. It has therefore not been demonstrated that the glazed vertical panels and frames, rear doors and frame and roof structure have been substantially complete for four years or more on the date the enforcement notice was issued. The appeal on ground (d) therefore fails.

Appeal on ground (a)

Main Issues

26. The main issues in considering the ground (a) appeal are the effect of the conservatory on:

- the character and appearance of the host dwelling and the immediate area; and,
- the living conditions of the occupiers of No 130, particularly in relation to privacy.

Reasons

27. The appeal property is a semi-detached two storey dwelling. It has been previously extended by a wraparound single storey rear extension with mono-pitch tiled roof. The appeal conservatory has been built on the back of this extension adjacent to the boundary with No 130. It has low walls with glazed panels to the side and rear, with doors through the rear wall to the garden. It extends only part way across the rear elevation.
28. The appeal conservatory, in conjunction with the original extension, constitutes a disproportionate and unsympathetic addition to the original host dwelling. It fails to harmonise with the original dwelling or the rear extension to which it is attached and detracts from the established character and appearance of the host property and the immediate area. This is contrary to saved Policies BE15 and BE19 of the London Borough of Hillingdon Unitary Development Plan (adopted 1998) which requires development to harmonise with the scale form and architectural composition and proportion of the original building and complement or improve the character of the area.
29. Furthermore, it is contrary to the guidance in the Supplementary Planning Document entitled Residential Extensions (SPD) which advises that for semi-detached houses on a plot of more than 5m wide a rear extension of up to 3.6m deep is acceptable. The appeal conservatory as a second generation rear extension would extend further than 3.6m from the original rear elevation and thus is contrary to this guidance.
30. An appeal (reference APP/R5510/D/10/2120737) for retrospective planning permission for the same conservatory as the current appeal was dismissed in June 2010, prior to it being partially removed and rebuilt. I concur with the previous Inspector that the conservatory harms the character and appearance of the area.
31. In relation to the effect on the privacy of the occupiers of No 130, I saw on site that while occupiers of the conservatory could not view into the kitchen of No 130 the perception of overlooking from No 130 back to the conservatory was significant. As such, I consider that the conservatory results in unacceptable harm to the living conditions of the occupiers of No 130. This is contrary to UDP Policies BE19 and BE24 which require development to complement or improve the amenity of an area and protect the privacy of neighbours. However, I am satisfied that conditions to require obscuring or replacement with a solid panel of the glazed panels on the boundary with No 130, such that there was no intervisibility between the flank conservatory

elevation at No 128 and the rear windows/glazed doors at No 130, would overcome this identified harm to living conditions.

Conclusions on ground (a)

32. I therefore find that while the issue of the living conditions of the occupiers of No 130 could be adequately addressed by the imposition of conditions, this does not outweigh the harm I have identified in relation to the character and appearance of the host dwelling or the immediate area. For the reasons given above the appeal on ground (a) fails.

Overall Conclusions

33. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and variations and refuse to grant planning permission on the deemed application.

Formal Decision

34. It is directed that the enforcement notice be corrected by:

- The deletion of 'the development of' between 'permission' and 'a single storey' in paragraph 3 and its substitution thereto of the words 'the erection of glazed vertical panels and frames, rear doors and frame and roof structure on the plinth structure to the rear of the dwelling to create'

and varied by:

- Insertion of the words 'outlined in blue on the plan attached' after the word 'conservatory' in paragraph 3;
- Insertion of the words 'glazed vertical panels and frames, rear doors and frame and roof structure of' between 'remove the' and 'the single storey' in paragraph 5 (i).

Subject to these corrections and variations the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Hilda Higenbottam

Inspector

APPEARANCES

FOR THE APPELLANT:

Miss Zilaityte BA (Arch)	Agent for the appellant
She called	
Ms Rahila Jain	Appellant
Ms Hind Jain	Daughter of appellant
Miss Megan Boatswain	Foster daughter of appellant
Mr Zubar Ahmed	Friend of Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Ms Mehta	Solicitor for the Council
She called	
Mr D Lord MA	Planning Enforcement Officer, London Borough of Hillingdon
Mr S Volley MA	Planning Enforcement and Appellants Manager, London Borough of Hillingdon

INTERESTED PERSONS:

Ms Aarti Didi	Owner/occupier of 130 Long Lane
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DOCUMENT SUBMITTED AT THE INQUIRY

- 1 Supplementary Planning Document- Residential Layouts (July 2016) submitted by the Council