

Appeal Decision

Site visit made on 18 August 2017

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

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

Decision date: 05 September 2017

Appeal Ref : APP/T5150/C/16/3165070

Land at 779 Harrow Road, Wembley, HA0 2LW.

- 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 Tarlochan Singh Goel against an enforcement notice issued by the Council of the London Borough of Brent.
- The notice was issued on 10 October 2016.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a part single, part two storey side extension to the rear of the premises.
- The requirements of the notice are (i) demolish the part single, part two storey side extension to the rear of the premises and (ii) remove all materials, items and debris arising from that demolition and remove all materials associated with the unauthorised development from the premises.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: the appeal is dismissed and the enforcement notice is upheld

Application for costs

1. The Council has made an application for costs against the Appellant and this is the subject of a separate decision.

Preliminary Matter

2. An appeal under ground (c) was initially lodged by the Appellant and then ground (d) was added. Both grounds (c) and (d) were then withdrawn during the course of the appeal and replaced with grounds (a) and (f). I will determine the appeal under grounds (a) and (f) appeal accordingly.

Ground (a) appeal and deemed application

Main Issues

3. The main issues in the determination of this appeal are the effect of the development on (i) the character and appearance of the area and (ii) the living conditions of occupiers of nearby residential dwellings with particular regard to outlook.

Character and appearance

4. The appeal site is a two storey end of terrace property part of a parade characterised by commercial ground floor uses with residential accommodation on the upper floors. The rear is characterised by outriggers. The outrigger at the appeal site has been extended to create a separate dwelling, no 779C. The rear of the neighbouring property no 777 is in residential use as flats.
5. The unauthorised development sits at the rear of the property and comprises a part single, part two storey side extension. The single storey element is built up to the shared boundary with no 777. The first floor element is a flat roof infill extension.
6. The development plan (including the London Plan and the London Borough of Brent Unitary Development Plan (UDP) and Core Strategy) mirror the National Planning Policy Framework (the Framework) in emphasising that development should be of high quality design and contribute to overall quality of an area.
7. Policy BE2 of the UDP provides that development should be designed with regard to local context, making a positive contribution to the character of the area. Policy BE9 emphasises the need for extensions to be of appropriate architectural quality.
8. Whilst the development is not visible from the streetscene it is highly visible from the rear of the properties, including from habitable windows of neighbouring residential properties. Its siting is prominent on the boundary with no 777. Its design is bulky and the flat roof infill is out of keeping with its context and appears visually obtrusive. It does not sit well with the outrigger extension and its design and white plastic materials contrast starkly with the host building and add to its visual prominence.
9. Having regard to the size and siting of the development I consider that it is out of keeping with the surrounding area. It results in a structure that is of poor design and incongruous appearance. Its siting on the boundary has an adverse visual impact on neighbouring residents. It does not contribute to the overall quality of the area contrary to the development plan.
10. The Appellant draws to my attention other development in the area. But I do not know the particular circumstances of nearby properties and in any event any harm caused by other development does not justify further harm caused by this unauthorised development. The existence of other similar development is not so prevalent as to be characteristic of the area.
11. I have considered whether conditions could overcome the identified harm and have taken into account the Planning Practice Guidance. The Appellant suggests a condition requiring that all materials and finishes match those of the original dwellinghouse. He says that the plastic white cladding could be removed and the extension rendered to match the outrigger but that would not address concerns relating to its siting or design. I do not consider that conditions could overcome the identified harm to the character and appearance of the area.

Living conditions

12. The close proximity to the boundary of no 777 creates an overbearing visual impact and loss of outlook for the occupiers of no 777. The Appellant says that

this is no different to that created by the outrigger. But I disagree. The development adds to the outrigger, sits on the boundary with its neighbour and creates an overbearing visual impact. It is visible from habitable windows creating an overbearing outlook. I note the objection from a neighbour who refers to significantly diminished natural light. I conclude that the unauthorised development causes undue harm to the living conditions of residential neighbours with particular regard to loss of outlook.

Other matters

13. The Appellant explains that he was unaware of the need for planning permission and that the works were undertaken by a tenant. Whilst I sympathise these are not grounds of appeal that I can take into account. Similarly, matters of land ownership are not within my remit.

Conclusion on ground (a)

14. I conclude that the development causes harm to the character and appearance of the area and to the living condition of occupiers of nearby residential properties with regard to loss of outlook. It does not accord with policies in the development plan. The appeal on ground (a) fails.

Ground (f) appeal

15. This ground of appeal is that the steps required to comply with the notice are excessive and that lesser steps would overcome the objections.
16. There are two purposes that an enforcement notice can seek to achieve. The first is to remedy the breach of planning control and the second is to remedy any injury to amenity caused by the breach. It. In this case the notice seeks to restore the land to its condition before the breach of planning control took place and is directed to remedy the breach by the removal of the development. I am satisfied that no lesser steps would satisfy that purpose.
17. The Appellant argues that demolition is punitive and that instead the notice should require (i) modification of the first floor two storey extension so that materials match existing and comply with building regulation approval and (ii) modification of the single storey side extension flank wall so that materials match the existing. But as I have explained in the ground (a) appeal these steps would not remedy the injury to amenity as they would not address the concerns with regard to siting and poor design. Compliance with building regulations is in any event not relevant when considering the planning merits of the development.
18. The appeal on ground (f) fails.

Conclusion

19. For the reasons given above I conclude that the appeal should not succeed and I shall uphold the notice accordingly.

Formal Decision

20. The appeal is dismissed, 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.

S. Prail

Inspector