



Appeal Decisions

Site visit made on 14 August 2019

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 October 2019

Appeal A: APP/N5090/C/18/3213397

Land at 3 Saddlescombe Way, London N12 7LS

- 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 Hassan Somani against an enforcement notice issued by the Council of the London Borough of Barnet.
- The enforcement notice was issued on 11 September 2018.
- The breach of planning control as alleged in the notice is Without planning permission, the construction of a single storey rear extension (1), an upwards extension of the former garage (2), a first floor side extension above the former garage (3), and a roof conversion consisting of a hip-to-gable roof extension and rear dormer extension (4). As shown in the attached photographs A and B.
- The requirements of the notice are Restore the property to the state in which it was prior to breach of planning control to match the approved drawing nos: 002 rev A (Existing Ground Floor Plan); 003 rev A (Existing First Floor Plan); 004 rev A (Existing Second Floor Plan); 005 (Existing Roof Plan); 006 (Existing Front Elevation); 007 (Existing Rear Elevation); 008 rev A (Existing Side Elevation) and 009 rev A (Existing Side Section) as per consent B/02515/13 granted on 6th August 2013, by demolishing the single storey rear extension (1), the upwards extension over the former garage (2), the first floor side extension (3) and the roof extension, incorporating the hip-to-gable extension and rear dormer extension (4).
- The period for compliance with the requirements is 4 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.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B: APP/N5090/W/19/3223503

3 Saddlescombe Way, North Finchley, London N12 7LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Hassan Somani against the decision of the Council of the London Borough of Barnet.
- The application Ref 18/6670/S73, dated 9 October 2018, was refused by notice dated 29 January 2019.
- The development proposed is "Variation of condition 1 (Plan Numbers) pursuant to planning permission B/02515/13 dated for 06/08/13 for 'Single storey rear extension. First floor side extension over existing garage including new pitched roof and partial conversion of existing garage into habitable space. Alterations to roof including 1no. front, 1no. side and 2no. rear roof-lights to facilitate a loft conversion'. Amendments include increase in height of the flat roof of the converted garage, alteration to rear glazing, alterations and extensions to main roof design including hip to gable, rear dormer and new side gable window and alterations to single storey rear extension and first floor side extension."

Summary of Decision: The appeal is allowed, and planning permission granted subject to the conditions set out below in the Formal Decision.

Application for costs

1. An application for costs was made by Mr Hassan Somani against the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

Appeal A on ground (c)

2. The ground of appeal is that the matter alleged does not constitute a breach of planning control. The appellant's ground (c) appeal refers to the roof alterations, incorporating the hip-to-gable extension and rear dormer extension and to the conversion of the garage to habitable room space. However because the conversion of the garage to habitable space does not form part of the alleged breach of planning control I take no further action in this regard.
3. The provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), within Schedule 2, Part 1, Class B allow for "the enlargement of a dwellinghouse consisting of an addition or alteration to its roof" as permitted development subject to various limitations and provisos. In terms of conditions paragraph B.2.(b)(i)(bb) of the GPDO states that the edge of the enlargement closest to the eaves of the original roof shall, so far as practicable, be not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves.
4. It is apparent that the dormer extension covers most of the rear elevation of the roof and has been built very close to the outside edge of the eaves. From the information before me and my visit I am not persuaded that it has been constructed in accordance with this proviso. Whilst a hip to gable extension can be permitted development in accordance with the above provisions, it seems to me that in this case the alteration has been implemented with, and cannot easily be disaggregated from, the rear dormer extension, as a single building operation. As I have reached the view, on the balance of probability, that the dormer was not permitted development, it follows that the overall roof alterations of which the dormer is an integral part would also not have been permitted. Taken as a whole the development does not accord with that which was granted planning permission in 2013. The ground (c) appeal therefore fails.

Appeal A on ground (a) and Appeal B

Preliminary Matter

5. With regard to Appeal B, I have taken the description of development from the Council's decision notice as confirmed on the appeal form.

Main Issues

6. The main issues are the effect of the development on i) the character and appearance of the host dwelling and surrounding area and ii) the living conditions of neighbouring residents at No 2 Saddlescombe Way with particular regard to privacy, outlook and light.

Reasons

Character and Appearance

7. The appeal site is within a sloping cul de sac of two-storey, semi-detached dwellings in a suburban location. Dwellings are generally constructed in brick, with double storey projecting bay windows to the front elevation. However it was apparent from my visit that many of the properties in the cul de sac have received hip to gable and / or side extensions which tend to disrupt any strong sense of symmetry between pairs of dwellings and uniformity of design in the street scene. The steep gradient and curve of the road also serves to dilute any sense of uniformity in the height and alignment of dwellings. It was also apparent that substantial rear dormer extensions are relatively commonplace in the vicinity of the site.
8. I am in no doubt that the house has been substantially extended, and the symmetry with the adjoining dwelling diluted. However the two-storey extension to the side has been set back from the main front elevation, appearing subordinate to it, and the rear dormer and single storey rear extensions are not prominently located in relation to the public domain. Furthermore the single storey rear extension appears to broadly accord with what has already been permitted in terms of scale and is not disproportionate to the relatively extensive rear garden.
9. I find the choice of brick and design and proportion of windows to be broadly in keeping with the main dwelling. Despite the aforementioned loss of symmetry, the orientation of these dwellings in the cul de sac means that the eye does not tend to be drawn to this characteristic in isolation. In the context of my aforementioned observations regarding the overall character of the street scene, I find the extensions to be proportionate and relatively sympathetic additions that do not stand out as incongruous features.
10. I conclude that the extensions do not result in harm to the character and appearance of the dwelling and surrounding area. Accordingly I do not find conflict with Policies 7.4 and 7.6 of the London Plan 2016, Policy CS5 of the Barnet Core Strategy 2012 and Policy DM01 of the Barnet Development Management Policies Development Plan Document 2012 (DPD) insofar as they seek to secure high quality design and respect for the local character of the area. The extensions are broadly consistent with guidance set out in the Council's Residential Design Guidance Supplementary Planning Document 2016 (SPD), with the exception of that relating to the scale of dormers and large roof extensions. Notwithstanding this, I find these developments to be appropriate in the context of the street scene.

Living Conditions

11. The Council has raised concern over the potential for overlooking of the neighbouring property, No 2, from side elevation windows in the extensions at first-floor level and in the converted loft space. It was apparent from my visit that the first-floor window is glazed to a high standard of obscurity. Whilst it can be opened, in so doing it allows for only limited visibility over the side garage of the neighbouring property and very oblique views of the rear garden, and then only from distance. The loft window, serving a stair well, is not at all easily reachable for the purposes of opening and closing. Whilst finished with obscure glazing, there is no significant visibility of the neighbouring property,

because of its elevated position in relation to the stairs. Its primary purpose would appear to be for lighting the stair well area. I am in no doubt that these characteristics result in no harm to the privacy of neighbouring residents.

12. In terms of outlook, the closest windows to the extensions are in the side elevation of No 2. The raised side elevation of the upward extended former garage is in relatively close proximity to these windows. However the windows in question appear to be obscure glazed and therefore outlook from them would already be very restricted due to their inherent design. In any event I am not persuaded that the overall scale and design of the side and rear extensions, taking into account their separation from the main front and rear aspect of the neighbouring property, whilst also considering differences in ground level, causes material harm to the living conditions of neighbours in terms of effect on outlook. Whilst the extensions may have led to some reduced lighting to the rooms served by the side facing windows, there is no evidence before me that 'habitable' rooms are adversely affected, when also taking account of the extension that was previously granted planning permission by the Council¹.
13. I conclude that the extensions do not result in harm to the living conditions of the neighbouring residents in terms of privacy, outlook and light. Accordingly I do not find conflict with Policy DM01 of the DPD or with the SPD insofar as they seek to protect the living conditions of local residents in relation to these factors.

Other Matters

14. Concerns raised with regard to the paved driveway altering the water table and drainage efficiency of the area are unsubstantiated.
15. I have considered the argument that the grant of planning permission would set a precedent for other similar developments. However, each application and appeal must be determined on its own individual merits and a generalised concern of this nature would not in itself justify withholding planning permission.

Conditions

16. I have considered the need for conditions. The parties raise no objection to conditions being imposed to prevent the use of the rear extension roof as a balcony; removing permitted development rights in relation to potential additional windows and requiring the retention of side facing windows in obscure glazing in order to protect the living conditions of residents.

Conclusion

Appeal A

17. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted, subject to conditions. The appeal on grounds (f) and (g) does not therefore need to be considered.

Appeal B

18. For the reasons given above I conclude that the appeal should be allowed.

¹ Ref B/02515/13

Formal Decisions

Appeal A

19. The appeal is allowed, 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 construction of a single storey rear extension (1), an upwards extension of the former garage (2), a first floor side extension above the former garage (3), and a roof conversion consisting of a hip-to-gable roof extension and rear dormer extension (4). As shown in the attached photographs A and B on Land at 3 Saddlescombe Way, London N12 7LS referred to in the notice, subject to the conditions below.

Appeal B

20. The appeal is allowed and planning permission is granted for "Variation of condition 1 (Plan Numbers) pursuant to planning permission B/02515/13 dated for 06/08/13 for 'Single storey rear extension. First floor side extension over existing garage including new pitched roof and partial conversion of existing garage into habitable space. Alterations to roof including 1no. front, 1no. side and 2no. rear roof-lights to facilitate a loft conversion'. Amendments include increase in height of the flat roof of the converted garage, alteration to rear glazing, alterations and extensions to main roof design including hip to gable, rear dormer and new side gable window and alterations to single storey rear extension and first floor side extension" at 3 Saddlescombe Way, North Finchley, London N12 7LS in accordance with the terms of the application, Ref 18/6670/S73, dated 9 October 2018, subject to the conditions below.

Roy Merrett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The flat roofed, single storey rear extension shall at no time be used as a balcony or similar amenity / sitting out area.
- 2) The obscure glazing in the windows fitted to the side elevation of the dwelling, facing No 2 Saddlescombe Way, shall be retained in perpetuity.
- 3) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification), no windows or dormer windows other than those authorised by this permission shall be constructed to the side elevation of the dwelling facing No 2 Saddlescombe Way.

END OF SCHEDULE OF CONDITIONS