



Appeal Decision

Site visit made on 9 September 2019

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 8 October 2019

Appeal Ref: APP/R5510/C/18/3214063

28 Hitherbroom Road, Hayes UB3 3AA

- 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 D Patang against an enforcement notice issued by the Council of the London Borough of Hillingdon.
- The enforcement notice was issued on 19 September 2018.
- The breach of planning control as alleged in the notice is: (i) Without planning permission the erection of a second generation single storey rear extension; (ii) Without planning permission the erection of a third generation single storey rear extension; and (iii) Without planning permission the erection of a single storey outbuilding in the rear garden.
- The requirements of the notice are: (i) Demolish the second generation single storey rear extension (as shown hatched in green on the attached plan) or alter the second generation single storey rear extension (as shown hatched in green on the attached plan) to accord with the approved plans attached to planning permission 41228/APP/2017/1700. (ii) Demolish the third generation single storey rear extension (as shown hatched in blue on the attached plan) (iii) demolish the outbuilding (as shown hatched in purple on the attached plan) (iv) remove from the land all debris, waste, building materials, fixtures and fittings, plant equipment and machinery resulting from the demolition works listed in (i) to (iii) above .
- The period for compliance with the requirements is 3 months from the date the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a variation.

Preliminary Matters

1. The appeal property is a semi-detached house with a pre-existing single storey rear extension. Planning permission was granted under reference 41228/APP/2017/1700 and dated 12 July 2017 (2017 Permission) for a further single storey extension. As this further extension was to be attached to that existing, it was termed by the Council as the 'Second Generation Extension'. This extension is being enforced against as it was not built in accordance with the approved plans.
2. A large outbuilding and an additional extension attached to the Second Generation Extension (referred to by the Council as the 'Third Generation Extension') have also been constructed without the benefit of planning permission. An application seeking retrospective consent for the Second

Generation Extension as built, Third Generation Extension and outbuilding was refused under reference 41228/APP/2018/1529.

The Appeal on Ground (a) and the Deemed Planning Application

Main Issues

3. The main issues are: the effect of the Third Generation Extension and outbuilding on the character and appearance of the appeal building and surrounding area; and the effect of the unauthorised Second Generation Extension and Third Generation Extension on the living conditions of the occupants of 26 Hitherbroom Road, with particular regard to outlook and loss of light.

Character and appearance

4. The immediate surrounding area is characterised by properties with relatively long gardens which are positioned end to end, creating a sense of spaciousness. Although a number of properties in the area have single storey rear extensions, those seen were generally of modest depth. As such, even where other properties have a rear extension and outbuilding, enough garden space remains as to maintain the open character.
5. In contrast, the Third Generation Extension protrudes significantly into the rear garden and the outbuilding also takes up a substantial amount of garden space. As such, they result in a cramped pattern of development, at odds with the more spacious prevailing character.
6. As regards the visual impacts of the appeal development, the combination of the single storey rear extensions as built changes the form of the house. The rear wall of the Third Generation Extension is some 11 metres from the original rear wall of the appeal property, approximately 4 metres beyond that of the Second Generation Extension as approved. It therefore dominates the original form of the house.
7. Excluding the height of the pyramid roof, the Third Generation Extension is lower in height than the original extension and the Second Generation Extension. However, the pyramid roof adds significant additional height and also does not accord with the roof form of the pre-existing extension or the Second Generation Extension.
8. The outbuilding is positioned at the end of the appeal property's garden, stretching across almost the entire width of the plot. It is very large in size relative to the size of the original dwelling and its permitted extensions, having a footprint of some 46 square metres, only two square metres less than the footprint of the original house by the Council's calculations. It is of significant height, measuring approximately 4.1 metres at the highest point of the roof.
9. I note that the Council's Residential Extensions Supplementary Planning Document (2008) (SPD) does not give guidance floor areas for outbuildings. However, the size of the outbuilding here, relative to the size of the house and garden, and particularly in combination with the Third Generation Extension, results in an over dominant and cramped form of development.

10. Whilst the Third Generation Extension and outbuilding are not apparent in views from the road, their height means that they are clearly visible from a number of neighbouring gardens. Although distanced from the main house, the outbuilding is still seen in the context of the main house as a dominant presence. Visual impacts of the Second Generation Extension as approved cannot be compared to those of the Third Generation Extension which protrudes significantly further into the garden.
11. There are some other outbuildings in gardens of other properties along Hitherbroom Road and in adjoining Coldharbour Lane gardens, including a cluster of which the appeal outbuilding forms a part. Some of these are fairly large in size. I do not though have full details of the planning circumstances leading to those developments in order to form a detailed comparison with the appeal outbuilding which I assess on its merits. The same is true of the extension cited at 22 Hitherbroom Road. In any event, the examples cited would not appear to include both second and third generation extensions in addition to outbuildings.
12. I conclude then on the first main issue that the Third Generation Extension and outbuilding have an unacceptably harmful effect on the character and appearance of the appeal building and surrounding area. They conflict with Policy BE1 of the Hillingdon Local Plan: Part 1 – (2012) (Part 1 LP), saved Policies BE13, BE15 and BE19 of the Hillingdon Local Plan Part Two (2012) (Part 2 LP) which seek to ensure that new development maintains the quality of the built environment and harmonises with the area and with the original building, where appropriate.
13. The Third Generation Extension and outbuilding would also conflict with the Council's Residential Extensions Supplementary Planning Document (2008) (SPD) which requires that single storey extensions are designed so as to appear 'subordinate' to the original house and not protrude out too far from the rear wall, and that outbuildings leave a practical amount of garden space and respect the design and appearance of existing and nearby houses.
14. They also conflict with the National Planning Policy Framework (2019) (Framework) which expects development to be visually attractive and sympathetic to local character and the surrounding built environment.

Living conditions

15. The SPD states that for semi-detached properties on plots of more than 5 metres wide, single storey rear extensions should not exceed 3.6 metres in depth. Where extensions on adjoining properties are built to a greater depth, it may be acceptable to have the same, unless this would cause harm to living conditions of other neighbours.
16. The Second Generation Extension as built has parapet walls which were not shown on the approved plans and the height of the whole structure is therefore 3.5 metres, rather than 2.9 metres as was approved. As built, it is some 50% higher than the maximum height of a boundary fence or wall which could be erected under permitted development rights. It is visible well above the common boundary with 26 Hitherbroom Road and is sited very close to that boundary.

17. The Third Generation Extension also almost immediately abuts the boundary with No 26 and adds an additional 4 metres in depth as compared to the Second Generation Extension. The total height and prominence of the Third Generation Extension is increased by the presence of the pyramid roof. Again, this extension is clearly visible above the fence to No 26, set in only slightly from the boundary.
18. No 26 has a single storey extension of only approximately 4 metres in depth and so the Second Generation Extension extends out significantly beyond this, with the Third Generation protruding out still further. In respect of both extensions, their height, depth and proximity to the common boundary with No 26 results in overshadowing of the rear garden area nearest the house and in an overbearing presence.
19. In view of the orientation of No 26's rear garden area relative to these extensions, and given that the area of garden overshadowed is that commonly used for sitting out, there is significant harm in this regard. As outlined, both the Second Generation and Third Generation Extension are unacceptable in their own right. However, the cumulative effect of these is particularly overwhelming for occupants of No 26.
20. Whilst the Officer's Report approving a Second Generation Extension did not explicitly state that a taller extension would be harmful, this does mean that it would not be. Occupants of No 26 clearly still have an outlook over their own garden but the appeal extensions are an oppressive presence. Permission granted for a 6 metre deep single storey extension at 24 Hitherbroom Road is not of a comparable depth to the Third Generation Extension. It would seem also though in that case that the adjoining property also had a 6 metre deep extension.
21. As regards the second main issue, the unauthorised Second Generation Extension and Third Generation Extension have a harmful effect on the living conditions of the occupants of 26 Hitherbroom Road, with particular regard to outlook and loss of light. They result in conflict in this regard with saved Policies BE19, BE20 and BE21 of the Part 2 LP which seek to safeguard the amenities of existing houses and indicate that planning permission will not be granted for extensions which by reason of their siting, bulk and proximity would result in a significant loss of residential amenity.
22. They are also contrary to the guidance in the SPD regarding the depth of single storey rear extensions. For the same reasons, these conflict with the Framework which requires the creation of places which promote a high standard of amenity for existing and future users.

Conclusion

23. There is no evidence before me to suggest that the development plan policies referred to are out of date in the terms of the Framework. On the contrary, the development plan is broadly consistent with the expectations of the Framework with regard to local character and amenity.
24. The appeal on ground (a) therefore fails and planning permission is refused.

The Appeal on Ground (g)

25. The appeal on ground (g) seeks to demonstrate that the period for compliance with the requirements of the notice falls short of what is reasonable.
26. The appellant has indicated that herself and her family occupy the appeal property. She suggests that compliance with the notice will be disruptive, and she will also need time to raise the funds to enable the demolition/remedial works and to find a builder with availability to undertake the works. The appellant requests a period of 12 months for compliance on this basis.
27. The works required would undoubtedly entail disruption to family life and would take some time to finance. However, in the absence of any detailed evidence in relation to the appellant's finances and regarding the availability of builders, this does not justify a whole year for compliance.
28. I consider a six month period to be reasonable and proportionate in the circumstances and bearing in mind the ongoing harm to the living conditions of neighbouring occupants. As the 2017 Permission expires in July 2020, a period of six rather than twelve months for compliance would also mean that the appellant could modify rather than demolish the Second Generation Extension if that is the preferred option.
29. As such, I conclude that a reasonable period for compliance would be six months, and I am varying the enforcement notice accordingly, prior to upholding it. The appeal under ground (g) succeeds to that extent.

Conclusion

30. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the deemed application.

Formal Decision

31. It is directed that the enforcement notice be varied by deleting the words '**Three (3) Months**' and substituting '**Six (6) Months**' as the period for compliance in paragraph 5 of the notice.
32. Subject to this variation 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 Town and Country Planning Act 1990 as amended.

V Bond
INSPECTOR