



Appeal Decision

Site visit made on 10 September 2019

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2019

Appeal A: APP/L5810/C/19/3220456

59 Rodney Road, Twickenham TW2 7AW

- 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 Jawaid Sheikh against an enforcement notice issued by the Council of the London Borough of Richmond-upon-Thames.
- The enforcement notice was issued on 11 December 2018.
- The breach of planning control as alleged in the notice is the erection of a single storey rear extension to the property.
- The requirements of the notice are:
 - i. Remove the extension and return the property to its condition prior to the breach of planning control; and
 - ii. Remove from the property all surplus materials and debris arising from the compliance with step 5(i) above.
- The period for compliance with the requirements is three calendar months.
- The appeal is proceeding on the grounds set out in section 174(2) (c), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is varied with a correction.

Appeal B: APP/L5810/W/19/3220484

59 Rodney Road, Twickenham TW2 7AW

- 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 Jawaid Sheikh against the decision of the Council of the London Borough of Richmond-upon-Thames.
- The application Ref: 18/4042/HOT, dated 7 December 2018, was refused by notice dated 4 January 2019.
- The development proposed is construction of a single storey rear extension.

Summary of Decision: The appeal is dismissed.

Preliminary Matter

1. There is a typographical error in paragraph 5(ii) of the enforcement notice which relates to the measures the appellant is required to do. Rather than reading "Remove from the Property all surplus materials and debris arising *for* the compliance with step 5(i) above", the requirement should read "Remove from the Property all surplus materials and debris arising *from* the compliance with step 5(i) above". This can be corrected without causing injustice to the main parties.

The appeal on ground (c)

2. The ground of appeal is that the matter alleged does not constitute a breach of planning control. It seems to me that the appellant is arguing that since a planning application was in the process of being determined at the time the enforcement notice was served, no breach of planning control had occurred.
3. The erection of a single storey rear extension comprises operational development within the meaning of s55 of the Act for which, s57 indicates, planning permission is required. There is no argument presented that the matter the subject of the notice does not constitute a breach of planning control by virtue of being granted permission by the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015. The evidence before me shows that on 7 December 2018 a planning application was submitted for the erection of a single storey rear extension to the appeal property and before that application was determined, on 11 December 2018 an enforcement notice was served. However, the application form shows that the development had already started without consent.
4. It is clear to me that irrespective of the status of the planning application at the time of service, the alleged breach of planning control had occurred. The appeal on ground (c) fails.

The appeal on ground (e)

5. The ground of appeal is that copies of the notice were not served as required by s172 of the Act. On 11 December 2018 the enforcement notice was served on the appellant by recorded delivery. I have insufficient evidence to conclude that it was not properly served on the occupants of the appeal property, 59 Rodney Road, Twickenham, Jawaid Sheikh of 19 St Thomas Road, Southgate and Barclays Bank PLC.
6. It appears that the date on the covering letter is 5 December 2018 in error, but the letters were correctly served on 11 December 2018. Therefore, although it looks like the notice was served before the date it was signed, this is in fact not the case. Rather than being a breach of s172 of the Act the date on the accompanying letter is an administrative error and does not affect when the notice was dated or the date the notice takes effect on 18 January 2019. The appeal on ground (e) fails.

The appeal on ground (f)

7. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve the purpose. The purposes of an enforcement notice are set out in s173 of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)). Since the notice requires the extension to be removed, the purpose is clearly to remedy the breach. Leaving any part of the extension would not achieve this purpose.
8. In order for the appeal to succeed on ground (f) the appellant must show that the steps required by the enforcement notice exceed what is necessary to remedy the breach of planning control. No lesser steps are suggested by the appellant. Indeed, the appellant has stated that compliance with the terms of the enforcement notice before the determination of the planning application for

the development is excessive. However, this is no longer a relevant argument since the enforcement appeal and the planning appeal are now linked.

9. In these respects, the appeal on ground (f) fails.

The appeal on ground (g)

10. The ground of appeal is that the time given to comply with the requirements is too short. Three calendar months would be sufficient to demolish the extension and remove surplus materials and debris arising from the works. The appellant has not suggested an alternative compliance period, but rather has stated that the time limit should be extended beyond the date of the determination of the appeal. This is not a relevant argument since the date for compliance is extended in any case by virtue of an appeal having been submitted.
11. In the absence of an argument with respect to justifying why the compliance period is too short the appeal on ground (g) fails.

Appeal B

12. The main issue is the effect on the character and appearance of the host property and the area generally.
13. The appeal property is a two storey end of terrace residential property. It has a complex planning history, including previous extensions and alterations. I understand that the property is currently a house in multiple occupation for six or fewer residents, although the Council has noted that the plans submitted with the application show seven rooms and the current use is therefore rather ambiguous. The current appeal relates to the erection of a single storey rear extension to the property. The evidence presented shows that the extension is the same extension as proposed previously by an application that was previously refused and dismissed at appeal. However, this current scheme differs in that the second extension replacing the existing conservatory is no longer proposed, but the conservatory would be removed.
14. The extension would project approximately 3 metres from the rear elevation of the existing property. The property has been extended considerably previously, including a large extension with a floor area of approximately 60 square metres and a conservatory. Bearing in mind the extensions that have already taken place, the current proposal would take up even more of the area of the plot. Considering that the previous extensions have exceeded the original ground floor area of the property and take up approximately 70 per cent of the original rear garden, the extension the subject of this appeal would be overdevelopment of the property.
15. As such it is my view that the development results in an adverse visual effect on the existing property and its immediate surroundings in terms of the overall size and bulk of the extension and its awkward appearance which is at odds with the original modest two storey property. As a consequence, when combined with the extensions that have been added previously, development appears as an incongruous addition which is overbearing in relation to the original host property. The extension therefore represents unacceptable overdevelopment of the site.

16. Furthermore, the property appears to be inconsistent and at odds with the size and scale of similar residential properties in the area, especially the terrace of which it forms a part, and the overall established prevailing pattern of residential development. The appellant contends that overall, the land covered by buildings would be reduced by the development which includes removal of the existing conservatory. However, the conservatory is a glazed relatively light weight structure and has less prominence than the proposed rear extension which is far more solid and in terms of its flat roofed form is at odds with its surroundings. Therefore, although the floor area may be reduced, the impact of the development is much greater and harmful.
17. The appellant has also commented that the properties in the area are of 1960s brick construction and are not of high architectural value. That may be the case but that does not mean that development with a poor relationship to the host property and its surroundings is acceptable. I recognise that the height of the extension on its own may not be problematic, but when combined with the overall effect of the extensions to the property it is a reasonable issue to be raised by the Council in relation to the overall effect of the development. I can also see that other than its immediate surroundings, the extension is not overly prominent. However, when viewed from the rear garden and close by the extension can be seen to be an incongruous and overbearing form of development in relation to the host property.
18. Therefore, I conclude that the development has a harmful effect on the character and appearance of the host property and the area generally. As such it conflicts with Policies LP1 and LP39 of the London Borough of Richmond Upon Thames Local Plan July 2018 and Local Plan Supplementary Planning Document House Extensions and External Alterations May 2015. The appeal on ground (a) fails.

Formal Decisions

Appeal A

19. I direct that the enforcement notice should be corrected by the deletion from paragraph 5(ii) of the word "for" and the substitution therefor of the word "from". Subject to this correction the appeal is dismissed and the enforcement notice is upheld.

Appeal B

20. The appeal is dismissed.

A A Phillips

INSPECTOR