



Appeal Decision

Site visit made on 29 October 2019

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 November 2019

Appeal Ref: APP/R5510/C/19/3221718

Land at 46 Jollys lane, Hayes Middlesex UB4 9NS

- 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 Richard Dawson against an enforcement notice issued by the Council of the London Borough of Hillingdon.
 - The enforcement notice was issued on 18 January 2019.
 - The breach of planning control as alleged in the notice is the development of the attached single storey timber framed building to the side of 46 Jollys Lane, Hayes, Middlesex UB4 9NS ("the breach").
 - The requirements of the notice are:
 - (i) Demolish and remove the attached single storey timber framed building to the side of 46 Jollys Lane as shown in the approximate position hatched blue on the plan attached to the Notice.
 - (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 months after this Notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(c), of the 1990 Act as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act have lapsed.
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

Ground (c)

2. The appeal is proceeding on ground (c), that the matter alleged in the notice does not constitute a breach of planning control. The onus of proof is on the appellant.
3. The appellant's case is that there has been no breach of planning control as the building benefits from permission for the erection of a two storey extension granted by planning permission 55773/APP/2007/2445 (the permission). The application that the appellant refers to, was granted planning permission on 23 October 2007 and was for the 'erection of a two storey side extension'.
4. The permitted plans provided as part of this appeal, show a two storey side extension with the ridge set slightly lower than the ridge of the original dwelling. It was shown to be set back from the front elevation. There were two windows in each of the front and rear elevations, one at ground floor and another of similar scale at first floor level. There was an internal door into the

main dwelling. The extension would have provided additional living accommodation with a dining room and study on the ground floor and two bedrooms on the first floor.

5. The appeal site is a semi-detached dwelling sited on the corner of Jollys Lane and Acer Avenue. From my site visit it was clear that, a building had been constructed adjacent to the side elevation of the dwelling. Whilst the building is in a poor state of repair, it is of sufficiently substantial and permanent construction, that it would constitute operational development that would have required planning permission. The parties do not dispute this.
6. The building is of timber construction, with a flat roof and it has been constructed immediately adjacent to the side elevation of the dwelling. The building is similar in appearance to the photographs that have been provided by the Council. These predate the issue of the notice. Therefore, it is reasonable to conclude that the alleged breach existed at the time the Notice was issued.
7. The appellant contends that the building is the remaining part of a two storey timber frame, that would have been finished with an external brick skin to comply with the permission granted. This timber frame was constructed up to roof height with felt and battens. Due to personal circumstances the works ceased for a number of years. The frame became weather damaged and was partly demolished in 2018, leaving the single storey element still to be removed.
8. For the building to benefit from the permission, it first has to be established that the permission was implemented within the specified time. The specified time was set out in Condition 1, being three years from 23 October 2007.
9. I have not been provided with measurements for the building for comparison purposes but acknowledge that it appears to be similar in footprint and position to that approved. There are window openings to the front and rear elevations, in similar positions to those shown on the approved plans, although at the time of my visit these were boarded up. However, there are a number of deviations from the approved scheme. The building is of single storey timber construction with a flat roof on a brick foundation. There is a personal door in the side elevation leading into the garden. The building has no internal partitions and is being used for the storage of building materials and there is no internal access to the main dwelling.
10. It is understood that the foundations were inspected by a building inspector at the time. However, I have not been provided with dates or any other evidence to allow me to establish whether these, or any of the works, were in connection with the permission and amounted to the implementation of that permission within time.
11. I acknowledge that a two storey timber building or framework may have been constructed following the grant of planning permission in 2007. I also recognise that the very significant delay in completing the works, may have led to storm and water damage, that would have required at least some demolition to be carried out before re-building could take place. However, the timescales involved and the extent of the demolition, have resulted in a building that is materially different, both physically and functionally from that approved. Moreover, the appellant acknowledges that the remainder of the building will

need to be demolished before any further works can be carried out. This adds further weight to the view that the development subject to the notice, is not simply a partially constructed two storey extension that is awaiting completion.

12. Overall, because of the various differences between the approved extension and the building subject to this notice, I consider that the building overall to be materially different from that which was approved. Moreover, I cannot conclude on the balance of probability, and on the basis of the evidence before me, that The permission, was implemented within the specified timescale. Accordingly, I conclude that the building does not benefit from that planning permission and the appeal is dismissed.

Conclusion

13. For the above reasons given above, I conclude that the appeal should not succeed and I shall uphold the enforcement notice.

Hilary Orr

INSPECTOR