



Appeal Decision

Site visit made on 24 October 2019

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2019

Appeal Ref: APP/T5150/C/18/3215197

118 Honeypot Lane, London NW9 9QX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mr Kanaya Chandiramani against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice was issued on 26 September 2018 under ref. E/17/0574.
 - The breach of planning control as alleged in the notice is: *"Without planning permission, the erection of a single-storey rear extension to the premises. ("the unauthorised development")"*.
 - The requirements of the notice are set out as follows:
*"STEP 1 Demolish the unauthorised development.
STEP 2 Remove all items and debris arising from that demolition and remove all materials and extractor fan associated with the unauthorised development from the premises."*
 - The period for compliance with these requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. 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.

Matters of clarification

2. As clarified by the appellant's wife at the site visit, I have taken the appellant's surname in the heading above from the title pages of his written representations, rather than from the enforcement notice appeal form.
3. The appeal property is a 3-storey, mid-terraced house. The notice attacks a single-storey extension that has been added to the rear of the house to enlarge the ground floor living accommodation.
4. At a site meeting on 9 August 2019 attended by one of the Council's officers and the appellant's agent, it was agreed that the rear extension actually has a depth of 3.93 m and a maximum flat roof height of 3.10 m, contrary to the appellant's original grounds of appeal statement in October 2018 which relied on measurements of 3.00 m for both its depth and height.

5. Following that site meeting, the appellant's agent promptly withdrew the appeal on ground (c) by email dated 11 August 2019.

The appeal on ground (a) and the deemed planning application

6. In assessing whether planning permission ought to be granted for what is alleged in the notice, the main issues are the effects of the extension upon the character and appearance of the host terraced building and its surroundings and upon the living conditions of neighbouring residents, particularly in terms of outlook and light.
7. My decision is based on the single development plan policy to which I have been referred – Policy DMP 1 (Development Management General Policy) of Brent's Development Management Policies document. This policy accords with the broad thrust of the National Planning Policy Framework (Framework) which sees the creation of high quality buildings and places as being fundamental to what the planning and development process should achieve.
8. The Framework says that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. The Council's supplementary planning document *Residential Extensions & Alterations SPD 2* adopted in January 2018 is therefore an important material consideration.
9. The appeal property falls within an attractive 2-storey and 3-storey residential terrace (nos 108-120 Honeypot Lane) which retains its original symmetrical appearance and architectural detailing when viewed from the road. Beyond the narrow and short back gardens in this terrace are communal parking areas which are accessed from Rose Bates Drive to the south. The somewhat plainer rear elevations of the terrace are finished in buff bricks with red brick detailing. The roof over the 3-storey building containing nos 118 and 120 is hipped and covered with tiles.
10. At my site visit I saw that some of the houses in the terrace and in the adjacent similar terrace to the north (nos 122-132) have ground floor rear projections but by and large these take the form of conservatories, from the very small ones at nos 120, 122 and 124 to those of more conventional size at nos 112 and 114. They are not comparable to what has been built at no. 118. There is a sizeable rear addition to no. 130, where a perspex lean-to has been added to a brick and tile projection, but this is an isolated example some distance away and I do not have the planning history of that site before me.
11. I consider the subject extension conveys the impression of a large, block-like structure. It appears as a discordant feature of this terraced property and within its immediate surroundings by reason of its size and scale, particularly having regard to its overall height in combination with its depth and its siting very close to the 2 side boundaries. It also visibly sticks out beyond the line of other ground floor rear additions within the host terrace and takes up a considerable amount of the modest back garden.

12. The choice of building materials leaves a lot to be desired. The white plastic wall cladding and red corrugated roof sheeting are of poor quality and fail to respect the rear elevation of the host building. The roof sheeting, in particular, appears as if it is a temporary solution. The materials cannot be justified by reference to the white masonry at ground floor level to the front of the host terrace, the red brick detailing to the windows or the white plastic frames of nearby conservatories. Changing to white painted render would still fail to blend in well with the buff brick rear elevation. The flashing of the roof over the side walls and the defects in the walling facing no. 120 that are of concern to the neighbours there are illustrative of unfortunate construction methods.
13. This is a disproportionate, poorly designed and visually unattractive enlargement of the house at ground floor level to the extent that it detracts from the character and appearance of the host terraced building. The extension is not noticeable from Honeypot Lane, but this does not diminish the Council's legitimate concern to protect the character and appearance of the building from inappropriate forms of development. In any event, the extension's discordant effect is readily apparent to the occupiers of a number of properties within the vicinity and from the semi-public parking courts to the rear of the property. It has a negative visual impact upon its surroundings.
14. The extension has resulted in a significant depth of built development next to the boundaries with the properties on either side. The ground floor rear elevations of both nos 116 and 120 contain windows to habitable rooms overlooking the respective rear gardens. The extension is visually overbearing and intrusive as it has impinged to an unacceptable degree upon the outlook from those adjacent ground floor windows and the garden areas immediately beyond them. This adverse sense of enclosure is exacerbated by the fact that these properties are rather narrow which limits the opportunity for outlook from their rear elevations. The neighbouring house at no. 120 also lies to the north of no. 118, so the extension is likely to have brought about a notable loss of sunlight reaching the rear ground floor windows and back garden of no. 120. The neighbours there have confirmed that they have experienced a serious deterioration in light for most of the year round due to the height and protrusion of the structure.
15. There has been an infringement of the guidelines for single-storey rear extensions to terraced houses found in SPD 2. In particular, SPD 2 indicates that for every additional metre beyond 3 m in depth, such extensions should be set in from the side boundaries by an additional metre. The subject extension is only set in by about 21 cm from the boundary with no. 116 and by about 30 cm from the boundary with no. 120. The conflict with this local design standard confirms the decision I have reached in this case.
16. Permitted development rights represent a fallback and a material consideration when considering the planning merits. However, there is no clear evidence before me to suggest that an identical or even a very similar extension scheme could take place once the notice has been complied with, using the permitted development rights that would then be available. Embarking on permitted development rights, under the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), would be unlikely to produce something less desirable than the subject development that has taken place. For instance, a flat-roofed rear extension compliant with the GPDO would be

likely to be of less depth and height and have its external walls constructed of materials that provide a similar visual appearance - for example in terms of colour and style of brick used - to the materials used in the existing rear wall of the house.

17. For the reasons given, I find on the main issues that the extension has materially harmful impacts upon the character and appearance of the host terraced building and its surroundings and upon the living conditions of neighbouring residents, particularly in terms of outlook and light. There is thus conflict with Policy DMP 1 of Brent's Development Management Policies document which, amongst other matters, seeks to ensure that development is of a location, use, concentration, siting, layout, scale, type, density, materials, detailing and design that provides high levels of internal and external amenity and complements the locality.
18. Drawing all the above together and taking into account all other matters raised, my finding on the main issues determines the outcome of the ground (a) appeal. There is conflict with the development plan and no material considerations of sufficient weight to justify a grant of planning permission. The objections to this development could not be overcome by planning conditions.
19. The appeal on ground (a) fails and planning permission will not be granted on the deemed planning application.

The appeal on ground (f)

20. This ground allows arguments to be put that the steps required by the enforcement notice to be taken, exceed what is necessary to remedy the breach of planning control, or as the case may be, to remedy any injury to amenity which has been caused by the breach.
21. I note that the Council gave the appellant ample time to submit a retrospective planning application or to consider alternative proposals prior to the issue of the notice. It appears that no progress was made in that regard.
22. The manner in which the Council has prepared the enforcement notice, including the formulation of its requirements and the heading of Schedule 4, indicates that its purpose is to remedy the breach of planning control in accordance with section 173(4) (a) of the Act. It is reasonable and not excessive to require that the unauthorised development be removed. This would remedy the breach and nothing more.
23. There is no lawful development certificate or express planning permission in place for alterations or enlargements at the rear of this house. I accept that the enforcement regime is not meant to be punitive, but no firm agreement has emerged between the parties about the changes to the development that would be required so that it fell within all the permitted development tolerances or about precisely how this would be achieved through a variation to the requirements of the notice. It may not be possible to entirely reflect a fallback through the GPDO by way of a variation of the requirements when the relevant rights in the GPDO are subject to conditions. There is no fully worked out alternative scheme or precisely worded alternative requirements submitted

for consideration. In any event, upholding the enforcement notice would not prevent the appellant from doing what is lawful under householders' permitted development rights or from entering into further discussions with the Council about other ways forward.

24. The steps required by an enforcement notice should be clear and unambiguous. I have not been provided with sufficiently precise or objective criteria to enable the requirements of the notice to be varied. I have therefore upheld the requirements as they stand. The appeal on ground (f) fails.

The appeal on ground (g)

25. This ground of appeal is that the time given for compliance with the notice falls short of what should reasonably be allowed. The notice gives 3 months for the requirements to be carried out. The appellant has requested that the compliance period be extended to 6 months to enable him to raise the necessary funds to complete the demolition works and remove all the associated items and debris from the site.
26. It is desirable that the breach of planning control is remedied without unnecessary delay in order to address the harm that arises from it, as identified in the reasons for issuing the notice. No financial details have been supplied concerning the estimated cost to demolish the extension and remove the materials from the site. I am inclined to the view that the physical works required by the notice are relatively straightforward and should not take very long to complete. The cost of demolition and removal is unlikely to prevent compliance.
27. In line with the advice set out in paragraph 58 of the Framework, effective enforcement is important to maintain public confidence in the planning system. The Council is plainly aware that it has the discretion to extend the compliance period, should any unforeseen difficulties arise, using its powers under section 173A (1) (b) of the 1990 Act as amended. On all the available evidence before me, I find that the 3-month compliance period given in the notice was reasonable. The appeal on ground (g) does not succeed.

Andrew Dale

INSPECTOR