



Appeal Decision

Site visit made on 8 October 2019

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 22 November 2019

Appeal Ref: APP/T5150/C/18/3214918
20 Beverley Drive, Edgware HA8 5NG

- 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 Mrs Bhavnita Shanil Bhatt against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice was issued on 26 September 2018.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey front, side and rear extension to the premises.
 - The requirements of the notice are: -
STEP 1 – Demolish the unauthorised single storey front, side and rear extension.
STEP 2 – Remove all debris, materials and items arising from that demolition and remove all materials associated with the unauthorised development from the premises.
 - The period for compliance with the requirements is 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended (1990 Act).
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeals were lodged. However, the sections relevant to them have not materially altered. As such, in the circumstances of these cases I do not consider that it is necessary to seek the further views of the parties. I am required to consider the appeals on the basis of the current Framework.
3. The appellant's Appeal Statement states that the appeal is made on ground (g) as set out in section 174(2). However, her appeal form states that the appeal is proceeding on ground (a) and the relevant fee was paid in order for an appeal on ground (a) and the application for planning permission to have been deemed to have been made under section 177(5) of the 1990 Act. Moreover, her Appeal Statement does not include any evidence in relation to ground (g). I have dealt with the appeal on this basis.

Main Issues - ground (a) and the deemed planning application

4. The main issues are: -
 - The effect on the character and appearance of the host dwelling and the surrounding area;

- The effect on the living conditions of neighbouring occupiers with regard to outlook, daylight and sunlight.

Reasons

Background

5. The enforcement notice relates to the single storey rear, side and front extensions that have been constructed at the appeal property. Planning permission was granted in 2015 for a single storey extension at the side of the dwelling that also extended beyond its main rear elevation (2015 permission). Even though, the description of that development refers to a porch no porch is shown on the approved plans. Also, in 2015 a Certificate of Lawfulness (COL) was granted for a single storey extension across the main rear elevation of the dwelling and separately the Council decided that prior approval (PA) was not required for that single storey rear extension.
6. There is no evidence before me to indicate that the footprints of the side and rear extensions that have been constructed are not similar to that shown on the approved plans of the 2015 permission and the submitted plans relating to the COL and PA. However, the overall extension that has been built to the side and rear of the dwelling encompasses both the 2015 permission and the COL/PA. Moreover, the height of the extensions as built is appreciably taller than that shown within the 2015 permission and the COL/PA.
7. If it was to be demolished there is little evidence before me to indicate that the 2015 permission and the COL/PA could both be implemented without the need for further planning permission. Furthermore, there is little evidence before me to indicate whether either of those schemes is likely to go ahead if I was to dismiss this appeal. Therefore, they have limited weight as a fallback position.
8. Nevertheless, the 2015 permission indicates that the Council considered, at that time, the side extension as allowed would not result in harm to the character and appearance of the area or the living conditions of the occupiers of nearby dwellings. Moreover, the PA indicates that the Council considered, at that time, that the rear extension would not have a harmful impact on the amenity of any adjoining premises.

Character and appearance

9. The appeal dwelling is 2-storey and semi-detached with single storey extensions to the rear, side and front. The appeal site is situated in a residential area which is characterised by a mix of detached and semi-detached housing with front gardens/drives. The use of bay windows, hipped roofs, similar materials and the repetition of forms and spaces provide an attractive and harmonious regularity to the area. Even though, I noted that the majority of dwellings have been extended at the side and many have porches/canopies to the front the overriding character and appearance of the area provided by this regularity has not been substantially eroded. Moreover, where these dwellings have porches/canopies as well as side extensions the design of each element is generally sympathetic to the host dwelling and its other elements.
10. The extension at the side of the dwelling, as built, is appreciably taller than that approved by the 2015 permission and it has a deep white fascia to its flat roof. Furthermore, a porch has been built at the front of the property and a shallow mono pitch roof extends across this porch and the front of the side

extension that did not form part of the 2015 permission. Due to the shallow pitch of the porch/canopy roof the deep white fascia of the side extension is clearly visible above the canopy. This creates an awkward juxtaposition between the canopy and the fascia that appears incongruous and jarring to the eye. In addition, the ground floor level of 18 Beverley Drive (No 18) is noticeably below that of 20 Beverley Drive (No 20) due to the sloping topography. In combination, these factors mean that the front and side extensions are visually prominent and dominate No 20's front/side elevations, when viewed from Beverley Drive, diminishing the character and appearance of the host building. Consequently, whilst reasonably localised in its extent, this significantly harms the character and appearance of the area.

11. The rear extension is also taller than the extension considered as part of the COL/PA. However, when viewed from the rear garden of No 20 the extension appears to be of a similar height to the extension that is to the rear of 22 Beverley Drive (No 22) and other rear extensions that are visible on nearby dwellings. As such, the rear part of the extension does not appear incongruous or dominant when viewed from the rear garden of No 20.
12. The appellant refers to the fact that extensions on similar types of houses, including No 22, have been built or approved in the surrounding area. The full details of them are not before me and such developments tend to be determined upon individual site circumstances. Furthermore, the Council stated at my site visit that the work being carried out at the front of No 22 is the subject of a current enforcement investigation. In any case, I am required to determine the appeal on its own merits.
13. Whilst reasonably localised in its extent, the effect of the development as constructed diminishes unacceptably the character and appearance of the host building with consequent harm to the character and appearance of the surrounding area. The development is therefore contrary to Policy DMP1 of the London Borough of Brent Development Management Policies (DMP). This policy seeks, amongst other things, development that is of a scale, detailing and design that provides high levels of external amenity and complements the locality.
14. It does not comply with the guidance in the Council's Residential Extensions & Alterations Supplementary Planning Document (SPD) which, amongst other things, states that single storey side extensions should be modest and complement your house. It also conflicts with paragraph 127 of the Framework which, amongst other things states that planning decisions should ensure that developments are sympathetic to local character including the surrounding built environment.

Living conditions

15. No 18 has a ground floor side facing window to the rear of its garage. The evidence before me indicates that this window is to a kitchen. The outlook from that window would only have had a partially open aspect, before the recently constructed extension was erected, as it's outlook would have been restricted by the flank wall of No 20's garage and the previous boundary treatment. Moreover, it would have been further restricted by the extension permitted through the 2015 permission.

16. However, there would have been a relatively open aspect over and above the roof of that extension. The additional height of the extension as constructed means that the outlook from that window has been appreciably further restricted. Consequently, I consider that due to the increase in its height that the constructed extension is likely to be experienced by the occupiers of No 18 from their side facing kitchen window as overbearing.
17. The Council's Statement of Case makes no distinction between sunlight and daylight and it does not include any technical evidence such as sunlight or daylight analysis in relation to this matter. The side facing kitchen window of No 18 faces approximately west. As the extension is to the west of the window it is likely that there is a loss of direct sunlight at certain times of the day received in that room due to their respective orientations.
18. However, the position and height of the garage and the boundary treatment would have influenced sunlight penetration to that window prior to the new extension being constructed. Moreover, the 2015 permission extension would also have had an impact on the amount of sunlight being received by that window. On balance, I consider that the additional loss of sunlight resulting from the constructed extension is not so great as to be appreciable when compared to the 2015 permission. Furthermore, given that the footprint of the side extension is similar to that approved in 2015 the additional height is not likely to significantly reduce the amount of daylight received in the side facing window. No technical evidence has been submitted, but my assessment of the appeal site and its relationship to the development lead me to conclude that it is likely that the extension does not significantly overshadow the side facing kitchen window of No 18.
19. No 22 is the other half of the semi-detached dwelling to the appeal property. As stated above it has a single storey extension that extends across its rear elevation. A rear facing window to that extension is in close proximity to the boundary with No 20. The SPD states that the maximum depth normally permitted for single storey rear extensions is 3 metres from the original wall of the house. It goes on to state that an extension up to 6 metres in depth may be acceptable providing that for every additional metre beyond 3 metres in depth, the extension should be set in from the boundary by an additional metre to protect neighbouring residential amenity.
20. The rear extension as constructed is around 4 metres in depth and its flank wall is in close proximity to the boundary with No 22. It projects slightly further from the rear elevation of the main dwelling than the extension at No 22. I do not consider that the increase in height of the extension as constructed compared to that considered as part of the PA would be experienced by the occupants of No 22 as overbearing from their rear facing window. Given the orientation of the extension and the rear facing window I do not consider that the extension reduces the amount of sunlight received in that rear facing window. I also consider that given the slight projection beyond the window and the existing boundary treatment that the extension does not appreciably reduce the amount of daylight received by that window.
21. I appreciate that the proposed depth, from the main wall of the dwelling, would not be in compliance with the SPD. However, given the development which exists at No 22 and my findings above it is reasonable to take a pragmatic view

on the proposal and the SPD is for guidance and cannot be expected to cover every eventuality.

22. In conclusion, I consider that the extension as built causes material harm to the living conditions of the occupiers of No 18 with regard to outlook. It follows that the development conflicts with DMP Policy DMP1 and paragraph 127 of the Framework which, amongst other things, states that planning decisions should ensure that developments create places with a high standard of amenity for future users.

Conclusion

23. For the reasons given above, and having taken account of all other matters raised, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

D. Boffin

INSPECTOR