



Appeal Decisions

Site visit made on 1 October 2019

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 25 November 2019

Appeal A Ref: APP/R5510/C/18/3214001

Appeal B Ref: APP/R5510/C/18/3214004

58 Doghurst Avenue, Harlington, Hayes, Middlesex UB3 5BJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- Appeal A is made by Mr Abdul Qawi Awan against an enforcement notice issued by the Council of the London Borough of Hillingdon. Appeal B is made by Mrs Shams-un-Nisa Awan.
- The enforcement notice was issued on 14 September 2018.
- The breach of planning control as alleged in the notice is without planning permission,
 - (i) The erection of a single storey wrap around extension to the front, east side, rear and west side of the dwelling;
 - (ii) The erection of a single storey front extension to the outbuilding at the rear of the property.
- The requirements of the notice are:
 - (i) Demolish the single storey wrap around extension to the front, east side, rear and west side of the dwelling (as shown hatched in green on the attached plan);
 - (ii) Demolish the single storey front extension to the outbuilding at the rear of the property (as shown hatched in blue on the attached plan).
- The period for compliance with the requirements is 3 months.
- Appeal A is proceeding on the grounds set out in section 174(2)(a) and (d) of the 1990 Act as amended. Appeal B is proceeding on ground (d). Since the prescribed fees have not been paid within the specified period, the Appeal B on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Summary of Decisions: The appeals are dismissed and the enforcement notice is upheld.

Appeals A and B on ground (d)

1. In this type of appeal, the onus of proof is firmly upon the appellant. It is necessary to consider whether the appellants have shown, on the balance of probability, that the operations were substantially completed on or before 14 September 2014.
2. The appellants claim that the extensions were built before 2004 and the outbuilding was built in 2001. Undated photographs showing extensions and an outbuilding at the property have been submitted. The appellants state that they date from January 2004 and January 2012. A photograph dated 6 December 2011, taken from the front of the property, has also been submitted. In addition, I understand that there are videos showing the extensions, but these have not been provided. Building Regulations approval is referenced but I have not been provided with the relevant documentation.

3. While there may have been extensions and an outbuilding at the property at the dates stated, these structures are not the same as those currently enforced against. The extensions in the photographs appear to be virtually flush with the front wall of the house and the structure to the eastern side appears to extend up to the boundary. They were faced to the front with white painted render. The extension to the outbuilding is not apparent from the photographs.
4. In contrast, the extensions enforced against occupy different footprints, extend forward of the original house and are faced in brick. A new porch and bay window have been constructed. The Council's photographs taken during construction, which it is stated date from 26 June 2015, indicate that the eastern side structure was demolished and re-built. The development is not the same as that which may have existed previously. Crucially, the Council's evidence indicates the development was constructed in June 2015.
5. Overall, the evidence presented in support of the appellant's claim is incomplete and ambiguous. The appellants have not shown, on the balance of probability, that the operations were substantially completed on or before 14 September 2014. Therefore, the appeals on ground (d) must fail.

Appeal A on ground (a) and the deemed planning application

Preliminary Matter

6. Planning permission was refused on 17 January 2017 for a two storey side/rear extension, conversion of roof space to habitable use to include a rear roof terrace and 2 front and 4 side rooflights, porch to front, canopy to front and installation of bay window to ground floor front window¹ (the 2016 application). The Council explains that the application was part retrospective as the proposed development was under construction at the date of the application. At the time of my visit, the ground floor extensions had been built as described above.

Main Issues

7. The terms of the deemed planning application are derived from the allegation. Hence, planning permission is sought for a single storey wrap around extension to the front, east side, rear and west side of the dwelling and a single storey front extension to the outbuilding at the rear of the property.
8. The main issues are: (i) the effect of the development on the character and appearance of the area and (ii) whether the development provides adequate living conditions for the occupants with regard to amenity space.

Reasons

9. The appeal relates to a two-storey detached house in a predominantly residential area. The main house is faced in render reflecting the other houses in the road. The property has been extended to both sides and at the rear. There is a large outbuilding which seems to have been altered/extended incrementally with the result that it now occupies a large proportion of the rear garden.
10. The extensions to the house are relatively large and incongruous structures that fail to integrate with the host dwelling or complement the character of the

¹ (Ref APP/2016/3905).

area. Their basic design and horizontal form is such that they present a stark contrast to the original house.

11. The use of brick, as opposed to render, accentuates the contrasting appearance of the extensions to the detriment of the host dwelling. The access that has been created to the eastern side does not alleviate these concerns. I am aware that the appellant has encountered issues with the foundations but this does not justify the extensions in their current form.
12. I saw that there are other extensions in the vicinity and the road contains a variety of house types and designs. However, this does not show that the development before me is acceptable for the reasons set out above.
13. The extensions do not achieve a high quality design, nor do they harmonise with the street scene, contrary to Policy BE1 of the Hillingdon Local Plan: Part 1 - Strategic Policies (2012) and Policies BE13, BE15 and BE19 of the Hillingdon Local Plan: Part 2 - Saved Unitary Development Plan Policies (2012). The extensions do not respect the scale, form and proportions of the original building contrary to the Council's adopted Supplementary Planning Document: Residential Extensions (December 2008) (SPD).
14. The outbuilding forms a large structure in the garden of the property. The extension identified on the plan has further reduced the amount of garden area such that it does not appear to meet the required standard for private usable garden space, as set out in the SPD². There is no evidence before me to show that the standard has been achieved or to explain why the standard is not appropriate in this case.
15. I understand that the additional plastic sheeting over part of the garden will be removed but this would not address the Council's concerns. The extension to the outbuilding does not maintain external amenity space contrary to Policy BE23 of the Local Plan: Part 2 and the SPD.
16. I am required to consider whether there is an obvious alternative to the scheme that would overcome the planning objections. The appellant indicates that the previous extensions present a valid fallback position and, therefore, the notice could be amended to reinstate those extensions. I have considered whether I could vary the notice and grant permission for the extensions as shown on the existing plans submitted with 2016 application. However, the evidence that the previous structures had planning permission or were otherwise lawful is incomplete. Hence, I am not satisfied that there is a valid fallback position in this instance.
17. In addition, I do not consider that the previous extensions would comply with development plan policy, which seeks to promote good design and protect residential amenity, due to their form, scale and design.
18. To conclude I find that the development has an adverse effect on the character and appearance of the area and does not provide adequate living conditions for the occupants with regard to amenity space. Therefore, the appeal on ground (a) must fail.

² The recommended amount of remaining private usable garden space is 40 square metres for a 2 bedroom house, 60 square metres for a 3 bedroom house and 100 square metres for a 4 bedroom house.

Conclusion

19. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decisions

Appeal A

20. 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 as amended.

Appeal B

21. The appeal is dismissed and the enforcement notice is upheld.

Debbie Moore

Inspector