



Appeal Decision

Site visit made on 25 November 2019

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2019

Appeal Ref: APP/N5090/C/19/3224807

24 Holders Hill Drive, London NW4 1NJ

- 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 Michael Evers against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The enforcement notice, numbered ENF/1600/18, was issued on 12 February 2019.
 - The breach of planning control as alleged in the notice is the development of a single storey rear extension (as shown in the attached photo).
 - The requirements of the notice are:
 1. Demolish the single storey extension.
 2. Permanently remove all constituent materials resulting from the works in 1. above from the property.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (b) 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. It is directed that the enforcement notice be varied by the deletion of 3 months and the substitution of 5 months as the period for compliance. Subject to the variation, the enforcement notice is upheld.

Application for costs

2. An application for costs was made by Mr Michael Evers against the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

Reasons

Ground (b)

3. The appeal is proceeding on ground (b), that the matters alleged in the notice have not occurred. This is known as one of the legal grounds and therefore the onus of proof is on the appellant.
4. The appellant's case is that the photograph attached to the enforcement notice shows an unfinished structure. The contention is that the breach alleged by the notice, therefore does not relate to the extension that has been subsequently built and completed.

5. I acknowledge that the photograph shows a building that is little more than an incomplete shell. I saw from my site visit that the extension now appears to be complete and has been brought into use. It is accepted by the parties, that the structure in the photograph is the same size and position as the extension subject of this appeal. Moreover, I have not been provided with any evidence to suggest that the extension in the photograph is a different extension from the one I saw, that has now been completed.
6. For an appeal on ground (b) to succeed it is necessary to provide evidence to demonstrate that, on the balance of probability, the alleged breach has not occurred as a matter of fact. I am satisfied that the structure shown in the photograph attached to the enforcement notice constitutes an extension to the dwelling, for the purposes of issuing the notice. It is not necessary for the Council to wait until the building or extension has been completed before they take enforcement action.
7. Accordingly, I find that on the balance of probability the breach, as alleged in the notice had occurred at the time that the notice was issued. Consequently, the appeal on ground (b) fails.

Ground (a) The deemed application

Background and main issues

8. The enforcement notice relates to the construction of a single storey rear extension. I have had regard to the reasons why the Council issued the notice and I consider that the main issues are:
 - The effect of the development on the character and appearance of the host dwelling and the area; and
 - The effect of the development on the living conditions of existing residents, with reference to outlook for the residents of No's 22 and 26 Holders Hill.

Character and appearance

9. The appeal site lies in a residential area that is characterised by two storey detached and semi-detached dwellings, set within modest front and rear gardens. The appeal building is one of a pair of semi-detached dwellings. At the time of my site visit the property had undergone significant works which has changed the appearance of the frontage. Nonetheless, it still retains the scale and many of characteristics of others in the area.
10. The development has resulted in a substantial 'L' shaped single storey extension to the rear of the property. It extends some 12 metres along the boundary with the neighbouring property at No 26. There remains a small area of garden between the rear wall of the extension and the existing outbuilding on the rear boundary. The garden is bounded by very high screen fencing that I acknowledge would restrict views into and from the site.
11. I have had regard to Barnet's Local Plan Supplementary Planning Document: Residential Design Guidance (2016). This provides additional guidance about the approach the Council will take when considering residential development, including rear extensions. However, whilst this provides useful information, it is still necessary to undertake an assessment of any possible harm in the context of the host building and the surrounding area.

12. I acknowledge that the extension would not be readily visible from public vantage points. However, it would be visible from the rear of neighbouring properties even with the existing screen fencing, which may or may not be permanent. The scale of the extension has resulted in an addition that appears overly large and dominant within this modest plot, giving it an overdeveloped appearance. The scale and mass of the extension is further exacerbated by its proximity to the existing outbuilding, that almost spans the width of the plot along the rear boundary. Moreover, the resultant garden size is very small when compared with the original and others in the area.
13. For the above reasons I find that due to the dominant appearance, scale and mass of the extension it has resulted in an incongruous form of rear garden development that dominates the host property and fails to respect, preserve and enhance the local character of the area. Consequently, it results in significant harm to the character and appearance of the area and would therefore conflict with policies DM01 of the Barnet's Local Plan (Development Management Policies) Development Plan Document (2012) (the LP) and policies CS1 and CS5 of the Barnet's Local Plan (Core Strategy) Development Plan Document (2012) (the CS). In summary these policies seek to ensure that all development is of high quality that preserves or enhances local character.

Living conditions

14. The property at No.22 also benefits from a rear extension, although the appeal building extends some 3 metres further into the garden. The flank wall of the extension therefore undoubtably results in some loss of outlook from their rear garden and in particular from the most useable amenity space closest to the dwelling. This results in a significant loss of outlook for the residents of this property.
15. Similarly, the flank wall of the longest elevation extends some 12 metres along the common boundary with No.26. The view of this imposing long flank wall in such close proximity, to the rear garden appears uncompromising and overbearing. It results in an extremely poor outlook and a strong sense of enclosure throughout much of the length of their back garden.
16. Overall, I find that due to the scale and positioning of the extension, there is unacceptable harm to the living conditions of the residents at No.22 and No.26 Holders Hill Drive. The development is therefore contrary to policies DM01 of the LP and policies CS1 and CS5 of the CS. These policies aim to ensure that development protects and enhances the gardens of residential properties and are designed to allow for adequate outlook for adjoining residents.

Other matters

17. In support of the appeal, my attention has been drawn to other properties in the area which have already been extended in a similar manner to the appeal property, including No.30 Holders Hill Drive. However, I have little evidence before me to confirm the history and circumstances of these sites or to assess any differences in the proposals. In any event, I have to determine this appeal on its own planning merits, and their presence would not justify granting this appeal.

Ground (g)

18. It is the appellants case that the period given by the Council to comply with the requirements of the notice is too short. I note that the evidence provided by both parties refer to a time period of two months. However, from the evidence I have before me the enforcement notice gives a time scale of three months to carry out the required works.
19. Notwithstanding this discrepancy, I accept that the appellant will need to instruct a suitable builder to carry out the works. The required works are extensive and will cause considerable disruption to family life, in particular during the winter months.
20. In view of this, I find that a period of five months would be a more reasonable timescale to make the appropriate arrangements. The appeal on ground (g) therefore succeeds in this regard.

Overall conclusion

21. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

Hilary Orr

INSPECTOR