



Appeal Decision

Site visit made on 3 December 2019

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2020

Appeal Ref: APP/T5150/C/19/3221247

43 Oxenpark Avenue, Wembley HA9 9SY

- 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 Razak Mousa Amran Al-Hamami against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice was issued on 20 December 2018.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of single and two storey side and rear extensions, roof extensions, porch, buildings in the rear garden, and a boundary wall to the front and side of the premises.
 - The requirements of the notice are:
 1. Demolish the unauthorised developments and remove all associated debris, items and materials arising from that demolition and all materials associated with the unauthorised development from the premises.
 2. Restore the premises back to its original condition before the unauthorised developments took place.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c) and (f) of the Town and Country Planning Act 1990 as amended.
-

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 as amended.

Reasons

The appeal on ground (b)

2. No evidence has been provided which satisfies me that the matters alleged in the notice have not occurred. As such, the appeal on ground (b) fails.

The appeal on ground (c)

3. In 2012 the Council granted planning permission for extensions to the property. In 2015 a lawful development certificate (LDC) was granted for roof extensions and other alterations. However, the development described in the enforcement notice is significantly different from the LDC development and that which was included in the 2012 permission.
4. Specific differences between the 2012 permission and the changes made to the main house include: the rear part of the extension is significantly wider, the front porch is of a different design, dormer roof extensions have been added on one side and the rear, the arrangement of windows and doors is different and a

sloping roof has been constructed over a side extension closest to the neighbouring property.

5. Considering the above points, I am not satisfied that any of the developments relating to the main house, described in the enforcement notice, benefit from an express grant of planning permission from the Council, as is suggested by the appellant.
6. Two contiguous flat-roofed outbuildings occupy the full width of the back garden of the property, immediately adjacent to its rear and side boundaries. The appellant considers these buildings benefit from permitted development rights. At the site visit, together the Council and the appellant measured the height of these buildings from ground level. Both buildings exceed 2.5m in height. As such they are not permitted development by reason of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).
7. The newly constructed boundary wall to the front and side of the property is adjacent to the public highway and exceeds 1m in height. As such, it is not permitted development by reason of Schedule 2, Part 2, Class A of the GPDO.
8. Taking all of the above points into consideration, I am not satisfied that any of the matters alleged in the enforcement notice benefit from planning permission or are permitted development. Accordingly, they each constitute a breach of planning control and so the appeal on ground (c) fails.

The appeal on ground (a)

9. The main issue in the ground (a) appeal is the effect of the development on the character and appearance of the area. The area is characterised by large dwellings on spacious plots, finished in a consistent pallet of brick and render in an arts and crafts style, with timber embellishments and casement windows.
10. The single storey element of the rear extension extends beyond both original side walls of the dwelling. As constructed, it presents a flat wide elevation to the rear, fills most of the plot and is very close to the boundary with the property to the side. The end adjacent to the property next door has a sloping roof immediately adjacent to the flat roof of the rest of the extension. This arrangement is awkward and incongruous. The black framed windows and doors of this extension do not match those on the rest of the property. Considering all of the above points, this extension is out of character with the area and is seen in public views from the highway.
11. The windows at first floor level on the rear and on the side extension closest to Toley Avenue are set down from the eaves. However, in the original house they are positioned directly below the eaves. Consequently, these windows appear incongruous and harm the character and appearance of the area.
12. The rear of the extensions have been finished in cream render whereas render on the rest of the property is white as is that seen on other houses in the area. Black timber embellishments have been attached to extended parts of the property at uneven distances. They are missing from positions where they would otherwise be expected, for example, around windows. For these reasons the finish of the extensions is incongruous in this context.

13. Pitched roof dormer extensions have been constructed on the side and rear of the property. Because of their overall size and position on the roof they add significant bulk to the building and distort the shape of its roof. They are visually obtrusive and uncharacteristic of the area.
14. The front porch adds a significant enclosed bulk to the front of the building. It rises up significantly above the ground and has a large overhanging roof which reaches almost up to the first floor windows and overlaps an extension to one side and a bay window to the other. The external steps leading up to the double entrance door exacerbate its prominence. It is a dominant and incongruous feature which is uncharacteristic of the area and which is significantly more prominent than that which was previously granted permission.
15. The rear garden outbuildings span the entire width of the appeal site. They have a significant footprint and height and so are clearly seen over the boundary from Toley Avenue and from neighbouring properties. Their size is harmful to the character and appearance of the area and there is no evidence to indicate buildings of this size are justified in this location. My attention has been drawn to outbuildings in neighbouring gardens but no information has been provided to demonstrate how they came to exist. As such I cannot be certain they are lawful and so I give them limited weight in this decision.
16. Together with 45 Oxenpark Avenue and Nos 14 and 17 Toley Avenue, the appeal property forms an attractive curved boundary arrangement to a road junction. The other properties at this junction have low brick walls or fences, some with hedges which soften their appearance. By contrast, the newly constructed boundary of the appeal property has the appearance of a fortress with high brick piers which are visually obtrusive. This arrangement does not reflect the character or appearance of the area and is incongruous in this context. Whilst the previous structure may have required repair or replacement, it does not justify what has been constructed.
17. Considering all of the above points, I conclude the appeal development harms the character and appearance of the area. As such it does not comply with Policy CP 17 of the Core Strategy 2010, Policy 7.4 and 7.6 of the London Plan 2016, Policy DMP1 of the Development Management Policies 2016, the Residential Extensions and Alterations Design Guide Supplementary Planning Document 2017 or the design policies of the National Planning Policy Framework. Accordingly the appeal on ground (a) fails.

The appeal on ground (f)

18. The purpose of the enforcement notice is to remedy the breach of planning control. No lesser steps have been suggested by the appellant which would achieve the above purpose nor are there any which are obvious. As such, the appeal on ground (f) fails.

Other Matters

19. The appellant considers the Council gave insufficient time for the appellant to respond to the alleged breach of planning control before serving the enforcement notice. However, the approach taken by the Council is not a matter for me to consider within the scope of this section 174 appeal.

20. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010 and the personal circumstances referred to by the appellant. However, it does not follow from the PSED that the appeal should succeed and dismissing the appeal is a proportionate response given the harm identified above.
21. I appreciate the site may be close to local bus and rail services and within walking distance of local schools and parks. I also appreciate the development may not harm the living conditions of neighbours or adversely affect highway safety. But these points do not justify the development in light of the harm identified above.

Conclusion

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

L Perkins

INSPECTOR