



Appeal Decision

Site visit made on 8 January 2020

by **P H Willows BA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 February 2020

Appeal Ref: APP/R5510/C/19/3229844

39 Attlee Road, Hayes, Middlesex UB4 9JE

- 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 Ms Shazia Farah against an enforcement notice issued by the Council of the London Borough of Hillingdon.
 - The enforcement notice, numbered 3E04/HS/015146, was issued on 8 May 2019.
 - The breach of planning control as alleged in the notice is, without planning permission, the development of a single storey side extension.
 - The requirements of the notice are:
 - (i) *'Demolish and remove the single storey side extension as shown in the approximate position hatched in blue on the plan attached.'*
 - (ii) *'Remove from the land all debris, waste, building materials, plant equipment and machinery resulting from the demolition works. resulting from the demolition works'*
 - The period for compliance with the 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.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out and referred to in the notice, namely the erection of a single storey side extension on land at 39 Attlee Road, Hayes, Middlesex UB4 9JE.

Preliminary matters

2. The Enforcement Notice repeats the phrase 'resulting from the demolition works' in the requirements at section 5. In view of my decision to allow the appeal and quash the notice, it is not necessary to correct this.
3. On 16 January 2020, the Council adopted its *Local Plan Part 2 – Development Management Policies* (the Part 2 Local Plan). As a consequence of this, the *Local Plan Part 2 Saved UDP Policies (2012)* has now been withdrawn. Accordingly, I have had regard to the new Part 2 Local Plan and have disregarded any policies from the 2012 document in determining the appeal.
4. The appellant submitted drawings numbered 01-07 with the appeal. These show potential modifications to the development, including landscaping

proposals and a change to a flat roof. The proposal with the modified roof is shown in drawings 03, 04 and 05, all dated 18-10-19.

5. In accordance with s177 of the Act, in determining this appeal I am able to grant planning permission in respect of 'the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters'. Accordingly, in determining the appeal on ground (a) it is open to me to consider the revised extension proposal, provided I am satisfied, as a matter of planning judgement, that it can be regarded as part of the matters stated in the enforcement notice as constituting a breach of planning control (ie, part of the extension as built). I return to this later.

The appeal on ground (a)

Main Issues

6. The main issues are:
 - i) The effect of the development on the character and appearance of the area; and
 - ii) Its effect on private amenity space at the appeal property.

Character and appearance

7. At its highest, where it joins on to the original house, the extension is about 3.5m in height, according to a measurement agreed by the representatives for the Council and the appellant during my site visit. This figure would be increased if measured from the slightly reduced ground level of the adjacent parking area. Even at its lowest point, the extension is noticeably higher than the brick boundary wall it is attached to. Its height, length (about 7.26m, according to the Council) and plain design mean that it presents a significant expanse of unrelieved brickwork to Attlee Road.
8. Moreover, the shallow pitch of the roof of the extension does not fit in with either the much steeper pitch of the roof of the main dwelling, or the flat roof of the outbuildings at this and neighbouring properties. Accordingly, the building has a harmful effect on the character and appearance of the locality. Furthermore, the site lies within the Barnhill Estate Area of Special Local Character, an area of local heritage interest which the Council seeks to protect.
9. Although the extension is in clear view from Attlee Road, it is set well back from the road, behind a low boundary wall and a paved parking area. These latter features reduce the impact of the extension on the street scene to an extent. Moreover, while a substantial addition to the house, as a single storey structure, the extension does not dominate it. I am also mindful that a substantial brick wall existed at the property, together with an outbuilding, before the extension was built. Nevertheless, the extension is larger than those pre-existing structures and the harm I have found means that there is conflict with policies BE1 and HE1 of the Council's *Local Plan: Part one – Strategic Policies* (the Part 1 Local Plan) and with policies DMHB1 and DMHB11 of the Part 2 Local Plan. Between them, these policies seek to ensure that buildings are well designed, the quality of the built

environment is maintained and that heritage assets, including Areas of Special Local Character, are protected.

Amenity space

10. The appeal development has caused a reduction in the amount of private amenity space at the appeal property. The Inspector who determined a previous appeal at the property¹ indicated that the private area to the rear of the house amounts to 32m², a figure which has not been disputed. This, the Inspector noted, compares with the figure of 60m² which the Council's *Residential Extensions* supplementary planning document (SPD) says should be the minimum for a 3 bedroom dwelling. The figure of 60m² is now incorporated into Table 5.2 of the Part 2 Local Plan, and given effect by Policy DMHB18. While I note the points raised regarding whether this is a 2 or 3 bedroomed property, that is no longer material to this case, since the same standard now applies to both. The available private amenity space falls short of the standards set out in Table 5.2, and there is conflict with Policy DMHB18 as a result.

Other considerations

11. The house is occupied by a person suffering from a chronic disability. Details of this have been provided as part of the appellant's case. This information is not disputed by the Council and I accept it. One effect of this is that there is a need for ground floor accommodation. The additional ground floor accommodation provided by the extension meets this need by enabling a ground floor room to be used for sleeping and by providing a ground floor wet room. I attach substantial weight to this.
12. The personal circumstances raised are also relevant to the need for amenity space at the property. For the health reasons set out in the appellant's statement of case, I accept that there is good reason why the private amenity space now at the property is suitable for the appellant's needs. Additionally, I am mindful that the plot is of a good size overall, with generous non-private areas to the front and side of the property. While these are not a direct substitute for more private areas, they remain available for current and future occupiers for some recreational and practical uses, such as car parking. They also ensure that the plot does not appear cramped.
13. I have noted the concern that allowing the development could set a precedent for future schemes, but my decision is based on the particular circumstances of this case, and no general precedent would be set. The fact that the extension was erected without planning permission does not alter my assessment of the planning merits of the scheme.

Alternative scheme

14. As noted above, the appellant has set out alternative proposals, one of which is shown in a set of drawings. That scheme would lower the roofline and reduce the expanse of brickwork facing the road. However, the bulk of the structure would remain and any gains would be modest. Moreover, the Council has not indicated any preference for the alternative scheme. In the absence of any significant planning benefit arising from the proposal, and

¹ Ref APP/R5510/D/18/3210409

given the appellant's evident preference for the scheme as built, I have not considered the revised proposals further.

Planning balance

15. I have found harm to the character and appearance of the area. However, as I have explained above, the setback of the extension from the road limits its visual effect to an extent. I have also found conflict with the development plan policy on private amenity space.
16. Set against these harms is the particular personal need that has been raised in this case. This is an important material consideration and I attach substantial weight to it.
17. Considering the case as a whole, I conclude that the harm arising from the development is outweighed by the particular need for the extension, as demonstrated in the evidence provided by the appellant.
18. I appreciate that I have reached this view little more than a year after my colleague's decision to dismiss the same proposal at appeal. However, it is clear that his decision was made on the basis of very different information. In particular, I have been presented with a detailed case regarding the appellant's particular need for the extension. Although the previous Inspector mentions the matter briefly, from his observations it does not appear that it was raised in any detail.
19. I am also mindful that the previous Inspector referred to a lack of evidence to show that the downstairs shower room could not be provided in a way that would be less harmful visually. In this instance, however, the appellant has set out alternatives, including the flat-roofed scheme referred to above. In my view, none of them provide significant visual benefits over the scheme as built.

Conditions

20. I have not attached a condition relating to materials as suggested by the Council. I have considered the extension as built and do not consider that there is any need for the materials to be changed. I have considered whether a condition relating to boundary walls, fences or other means of enclosure is necessary. However, the site is already bounded by a wall, and I am not persuaded that its replacement with a new wall or fence would improve the appearance of the site. Nor do I consider that controlling how the plot is landscaped, as the appellant suggests, is justified in this case.

Conclusion

21. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on grounds (f) and (g) does not therefore need to be considered.

Peter Willows

INSPECTOR