
Appeal Decision

Site visit made on 16 December 2019

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 12 March 2020

Appeal Ref: APP/A5270/C/19/3229603

25 Sutherland Road, West Ealing W13 0DX

- 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 Vaid against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The enforcement notice was issued on 26 April 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a rear roof extension.
 - The requirements of the notice are
 - A. Remove the rear roof extension in its entirety;
 - B. Restore the roof to its condition prior to the breach occurring; and
 - C. Remove all resultant debris; OR
 - D. Modify the development to accord with the approved plans (drawing title numbers 0210CALC.1, 0210.A4 and 0210.A5 attached to this Notice) and conditions 2,3 and 4 (decision notice attached to this Notice) attached to planning permission reference 183388HH and
 - E. Remove all resultant debris.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in sections 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The enforcement notice is varied by deleting “three months” and substituting “six months” as the period for compliance. Subject to this variation, the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the planning application deemed to have been made under s177(5) of the 1990 Act.

Application for costs

2. An application for costs was made by the London Borough of Ealing against Mr Vaid. This application is the subject of a separate Decision.

The appeal on ground (a) and the Deemed Planning Application

3. An appeal against the refusal of a retrospective planning application for the development already carried out was dismissed on the 14 May 2018¹(the appeal decision). Following the dismissal of the appeal, the appellant submitted a further planning application to the Council which proposed modifications to

¹ Appeal Ref: APP/A5270/D/18/3196539.

the existing development. That application was approved on 10 September 2018 (the planning permission).

4. As the works approved under the planning permission were not carried out, the Council served an enforcement notice in respect of the appeal development. The planning merits of the development carried out have been assessed under the original appeal decision. Neither party indicate that there have been any changes to policy since the appeal decision. However, the appellant considers that the subsequent grant of the planning permission is a material consideration which now makes the development acceptable.

Main Issue and Reasons

5. The main issue is therefore the effect of the rear roof extension on the character and appearance of the appeal dwelling, taking account of the planning permission.
6. The previous Inspector stated that *"the new structure dominates the original form of the main roof and over-tops the roof of the outrigger. Its overall form and detail is entirely at odds with the important characteristics of the dwelling"*. Having viewed the site, I see no reason to disagree with this previous conclusion.
7. The previous Inspector did address the issue of a potential fall back development. However, with limited information and the figures suggesting that a significant reduction in volume would be required, the Inspector was unable to compare the development with a potential fall back within permitted development tolerances. Since then, the Council has subsequently granted planning permission for an alternative lesser scheme with a reduced height and less volume than the existing development. The Council found the lesser scheme to be acceptable and considered it would accord with the relevant development plan policies. I have no reason to disagree with the Council's decision. Nevertheless, whilst that scheme was found to be acceptable, its scale and height are much less than the larger proportions of the existing roof extension. Thus, it does not justify retention of the whole development attacked in the enforcement notice which has already been found to be harmful to the character and appearance of the host dwelling by me and the previous Inspector.
8. The development does not therefore accord with Policies 7.4 and 7B of the Ealing Development Management Development Plan Document (2013) and Policies 7.4 and 7.6 of the London Plan (2016) which collectively seek to ensure that development complements the existing building.
9. The appellant has provided a number of appeal decisions with extracts of decision letters, decision notices and reports relating to other developments which he considers to be comparable. However, the decisions provided relate to a variety of roof styles and structures and matters such as appearance, local context and, where relevant, the interaction with permitted development rights will have been considered before reaching a decision on each individual proposal. The previous Inspector was also referred to both other roof alterations in the area and within the borough but found that "there was not a significant change to the overall character to the rear of these properties". The appellant has also referred to a consent granted by the Council in November 2018 relating to No 2 Sutherland Road which was after the issue of the appeal

decision for the development. However, the consent refers to a mansard roof which is not comparable to the development in terms of style or impact upon the host dwelling. It remains the case that each proposal has to be judged on its own merits and I do not find the circumstances of the decisions to be directly comparable to the development.

The appeal under ground (g)

10. An appeal on this ground is that the period allowed to comply with the notice is unreasonably short. The period for compliance is three months. The appellant has referred to the need to obtaining quotes, organising and implementing building works and the need to raise finances for demolition if the notice was upheld and has requested a period of 12 months. The Council has referred to a 6 month compliance condition on the previous planning permission not being appealed. Nevertheless, the Council did consider 6 months to be an appropriate period for compliance. Whilst I consider that a period of 12 months would be excessive, I do consider that a period of 6 months would be more appropriate to achieve compliance with the notice. I shall vary the notice accordingly.

Conclusion

11. For the reasons stated, subject to the variation to the period of compliance, I conclude that the enforcement notice is upheld and the appeal is dismissed. I shall refuse to grant planning permission on the planning application deemed to have been made under s177(5) of the 1990 Act.

E Griffin

INSPECTOR