



Appeal Decision

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2020

Appeal Ref: APP/R5510/C/20/3245369

Land at 67 Minet Drive, Hayes, Middlesex UB3 3JW

- 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 Vajshi Ravaliya against an enforcement notice issued by the Council of the London Borough of Hillingdon.
 - The enforcement notice, numbered HS/ENF/016347(B), was issued on 18 December 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the development of an additional single storey rear extension.
 - The requirements of the notice are:
 - (i) Demolish and remove the additional single storey rear extension shown 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.
 - The period for compliance with the requirements is three (3) calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2)[b] of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal has not been made under ground (a) therefore the merits of the appeal scheme are not before me and I am unable to give consideration as to whether deemed planning permission (DPA) should be granted. Notwithstanding the comments made by the appellant in respect of the impact of the extension it is not possible for me to recognise ground (a) as a 'hidden ground' because the necessary fee for the DPA has not been paid.
3. The appellant has not submitted his appeal on the basis of ground (c) which is that the matters alleged in the notice do not constitute a breach of planning control. However, he has addressed this ground in his submission, and it can be regarded as a 'hidden ground', consequently, I have considered it below.
4. In response to travel restrictions currently in place due to the COVID-19 pandemic I consider that this appeal can be determined without the need for a physical site visit. This is because I have been able to reach a decision based on the information already available. Both the appellant and the Council were given an opportunity to provide comments and neither party have provided any reasons as to why this approach is not suitable.

5. The Council has served a separate notice under its reference HS/ENF/016347(A) in respect of a material change of use at the appeal site. This notice does not fall to be considered under this appeal.

Ground (b)

6. An appeal under ground (b) is that the matters to which the notice relates have not occurred. This is a legal ground of appeal and the onus of proof lies with the appellant. The standard of proof is the balance of probabilities.
7. The appellant does not dispute that an extension has been erected. Given this admission, the unauthorised development has taken place on the land and the appeal on ground (b) fails.

Ground (c)

8. An appeal on ground (c) is on the basis that the matters alleged in the notice do not constitute a breach of planning control. This is also a legal ground of appeal and the onus of proof lies with the appellant. The standard of proof is the balance of probabilities.
9. The appellant argues that the extension does not require planning permission as a result of its construction, materials, size and use. On the other hand, the Council say that the extension is of a scale to require planning permission.
10. The plans which are attached to the Council's statement along with the photograph which is embedded in the statement clearly show that an extension has been constructed beyond an existing ground floor projection at the property. There is no evidence before me to suggest that the extension is not that which is outlined in blue on the notice.
11. Whilst the appellant may be correct in his description of the size of the extension at 3 metres, the information before me shows that in combination with the existing extension the projection as a whole extends more than 3 metres beyond the rear wall of the original house. The appellant does not argue that the dimensions stated by the Council as the relevant restriction in terms of 'permitted development' (i.e. development for which planning permission is not required) are incorrect.
12. In some instances, extensions of up to 6 metres in length may be added to semi-detached houses such as 67 Minet Drive without the need for planning permission. However, there is insufficient evidence before me to demonstrate that this allowance would apply in this case or how the cumulative length of the extensions which have been made relates to that 6 metre dimension.
13. With regard to the use of the property as flats, although this is not before me, the Council are correct in pointing out that flats do not benefit from permitted development rights for extensions. Therefore, if the unauthorised extension was constructed during any use of the building as flats then it would not constitute permitted development. Furthermore, such rights cannot be applied retrospectively which means even if the use of flats were discontinued and the building returns to use as a single family dwellinghouse the extension would be unauthorised.

14. Drawing all of these strands together I do not find that the appellant has demonstrated on the balance of probabilities that the extension as constructed does not constitute a breach of planning control.
15. For the reasons set out above, the appeal under ground (c) also fails.

Sarah Dyer

Inspector