
Appeal Decision

Site visit made on 2 June 2020

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 July 2020

Appeal Ref: APP/T5150/C/19/3240318

52 Northwick Avenue, Harrow HA3 0AB

- 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 Junyang Chen against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice, numbered E/18/0619, was issued on 24 September 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the demolition of a front porch and the erection of a single storey side and rear extension and alterations to the roof including the raising of the eaves, raising of the ridge height, erection of a hip to gable roof extension with rear dormer and the installation of rooflights to the dwellinghouse.
 - The requirements of the notice are: (1) Demolish the unauthorised development and with reference to the attached plans (001 Rev.0, 002 Rev.0, 003 Rev.0 and 004 Rev.0) and photographs to this notice, restore the premises back to its original condition to before the unauthorised works took place; and (2) Remove all items and debris arising from that demolition and remove all materials associated with the unauthorised development from the premises.
 - The period for compliance with the requirements is 4 months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) 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.

Preliminary matter

2. The Council has given prior approval to or issued certificates of lawfulness for roof alterations with a rear dormer and single storey side and rear extensions¹. Neither party has suggested that any of the approved or certified developments has been implemented. Nevertheless, and while what has been built is substantially and materially different, I have had regard to those decisions.

The appeal on ground (a)

3. The main issues are the effect of the development on:
 - The character and appearance of the house and the area

1. ¹ 17/4657, dated 22 December 2017; 18/0994, dated 9 May 2018; and 18/2003, dated 19 July 2018

- The living conditions of neighbours, especially in terms of outlook.

Character and appearance

4. Northwick Avenue includes a variety of complementary house designs, mostly mid-C20th semi-detached houses with projecting bays. It descends gently from Kenton Road, so that several pairs of semi-detached houses are stepped, including the appeal property and its neighbour at No 54, which is set slightly lower. While there is a mix of building materials, including pebble dash and render, red brick detailing and tiled roofs, the road has a cohesive character.
5. The side extension as built differs significantly from that certified lawful in July 2018 (the July 2018 scheme). It extends further forward, wrapping around the front of the house where a porch used to stand, and incorporates a new front door and three high level windows facing towards 50 Northwick Avenue. It results in the house spanning the entire plot in views from the road.
6. The Council's Residential Extensions and Alterations Supplementary Planning Document (the SPD) states that a single storey side extension may normally be built up to a shared boundary, unless it would result in a disproportionate addition of more than two thirds of the width of the original house. The side extension has not widened the house by that much. However, and while I saw side extensions up to shared boundaries nearby, the forward projection, unbroken canopy line, uniformity of materials and limited articulation visible from the road give it an overly horizontal emphasis. As a result, while displaying some innovation and being subordinate in scale, it detracts from the original proportions of the house and causes unacceptable harm to the character and appearance of the building and the area.
7. The alterations to the front roof plane and the replacement of the original hipped roof with a gable differ from the July 2018 scheme by reason of the altered position of 2 rooflights, the addition of a third rooflight and a higher ridge line. While the hip to gable alteration gives the pair formed with No 54 an unbalanced appearance, I saw other examples of this in the road and the July 2018 scheme would have had a similar effect. The step in the ridge line between Nos 52 and 54 adds emphasis to this imbalance but a similar step is visible in the August 2008 photographs attached to the notice and I saw other examples nearby, indicating that it is characteristic of the area.
8. For these reasons, the hip to gable alteration and the changes to the front roof slope have some consistency with the character and appearance of the house and the area. However, the imbalance within the pair is exacerbated by the large ridge tiles, which also contribute to the perception of bulk in views from the road, causing harm to the suburban character and appearance of the area.
9. The alterations to the rear roof slope are more extensive than the July 2018 scheme. In particular, the dormer spans the entire width of the house, following the removal of the rear chimney stack, and joins the roof at the apex. It therefore appears an upward continuation of the rear wall, making the house resemble a flat roofed 3-storey building in views from the rear, where the Metropolitan Line runs on an embankment at the end of the garden. This is exacerbated by the inclusion of large eaves and, viewed as a whole, the rear roof is over-dominant, to the house itself and in contrast with No 54, and out of keeping with the prevailing form and character of housing in the area.

10. The cumulative effect of the side and rear extensions and the alterations to the roof is that the original form and scale of the house are obscured in some views from the road and can no longer be discerned from the rear. As a result, and for the reasons given, they have an undesirable and adverse effect on the character and appearance of the house and the area.

Living conditions

11. Considering the potential effect on the occupiers of No 50, as noted earlier, the SPD normally allows single storey side extensions to reach shared boundaries. A relevant exception is where it would unduly affect the light into an existing side window that is the only means of light for a habitable room. However, no evidence of loss of light to any window in No 50 has been presented.
12. The Council contends that the side extension and the windows within it are unneighbourly in terms of encroachment and by restricting future extension of No 50. However, policies CP17 and DMP1 and the SPD are silent on these matters. While the side extension is a substantial and imposing feature, I note that No 50 is set back from the shared boundary and that planting within its garden and over a pergola afford a degree of screening. In the absence of any evidence of proposals to extend No 50 and, following the principle that a proposal must be assessed on its merits, I find no harm in respect of the living conditions of the occupiers of that house.
13. Due to its depth, the rise in ground levels between Nos 54 and 52, and the inclusion of a substantial parapet wall along the shared boundary, the rear extension has potential to affect the living conditions of the occupiers of No 54. Both parties state the wall is 3.4m high and it is not stepped in at any point. In contrast, the previous rear extension reduced in height as it went back, and its end section appears to have been a conservatory. Furthermore, while the extension follows the outline of the previous one in part, the 3.4m wall appears to project beyond the rear line of the previous extension. The current rear extension is therefore significantly and materially different.
14. The appellant has suggested that the effect of this extension should be considered against the fallback of a permitted development single-storey rear extension up to 8m in depth. However, the permitted development right for a semi-detached house² is for a maximum depth of 6m, not 8m, and is subject to a prior approval procedure including neighbour notification and under which the likely effect on neighbours' living conditions may be taken into consideration. Accordingly, I do not accept that a comparable fallback exists.
15. I have noted that No 54 has a spacious garden and a large, apparently part built, single-storey rear extension; however, that extension is set at a lower level with a roof that slopes down from the main rear wall, such that the rear extension to No 52 has an overbearing effect that does not respect the setting of No 54 and is harmful to the living conditions of the occupiers.
16. The development therefore has an unacceptable effect on the character and appearance of the house and the area and on the living conditions of neighbours and is therefore contrary to policy CP17 of the London Borough of Brent Local Development Framework Core Strategy and policy DMP1 of the London Borough of Brent Development Management Policies Document, which

² Schedule 2, Part 1, Class A, paragraph A.1.(g)(i) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

aim to protect the distinctive suburban character of Brent and ensure that development complements the locality and provides high levels of internal and external amenity, and Part 12 of the Framework.

Other matters

17. The development is sustainable, insofar as it allows more effective residential occupation, benefiting the appellant and his family. I have also noted that the rear extension does not give rise to concerns about overlooking, and that other houses in the area have had large extensions. However, these factors do not alter my findings on the main issues, and the adverse effects of the development significantly and demonstrably outweigh its benefits.
18. Accordingly, the appeal on ground (a) should not succeed.

The appeal on ground (f)

19. For the appeal to succeed on this ground, the appellant needs to demonstrate that the steps required by the notice exceed what is necessary to remedy the breach of planning control the notice alleges. The breach stated in the notice includes "the erection of a single storey side and rear extension and alterations to the roof including the raising of the eaves, raising of the ridge height, erection of a hip to gable roof extension with rear dormer and the installation of rooflights", and lesser steps would not remedy that breach in full.
20. The Council refers to the *Garland* judgement³, which confirms that a decision maker can require removal of an entire structure, not just any parts which exceed permitted development limits. It contends that the works were carried out as one development that must be considered in its entirety.
21. The appellant considers it is excessive to require removal of the hip to gable extension and rooflights, given the Council's lack of concern with similar elements in a planning application⁴ and I note those elements are not mentioned in the Council's reasons for issuing the notice. The appellant also contends that the requirements of the notice fail to recognise permitted development rights, including for the rear dormer in the July 2018 scheme.
22. I have considered these arguments but am mindful that the notice identifies raising of the ridge height as part of the breach of planning control. I have found that the dormer is significantly and materially different from that certified lawful in July 2018 and while the appellant considers it to be similar in size, style and position, he does not claim that it is not a breach of planning control. Furthermore, no structural details of how the development could be altered to achieve the lawful dormer have been submitted.
23. The side extension is significantly and materially different from the July 2018 scheme and, similarly, the rear extension is significantly and materially different from what was given prior approval in December 2017. No structural details of how they could be amended to conform to what was certified lawful or given approval are before me.
24. It has therefore not been shown what work would be necessary to bring the development within permitted development limits, or whether it would be structurally feasible. Consequently, and in view of the nature and extent of

³ *Garland v MHLG* [1968] 20 P&CR 93

⁴ 19/1905, refused 16 August 2019

work that might be required, the variations that would follow from the appellant's arguments would cause the notice to be imprecise. This is unacceptable because it would not be certain how to achieve compliance. In contrast, the plans and photographs attached to the notice as issued make it clear what compliance with the notice would look like.

25. For these reasons the appeal on ground (f) should not succeed.

Conclusion

26. For the reasons given above, I conclude that the appeal should not succeed. I have upheld the enforcement notice and refused to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Mark Harbottle

INSPECTOR