
Appeal Decisions

Site visit made on 23 June 2020

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 23 October 2020

Appeal A: APP/M5450/C/20/3246644

57 Bush Grove, Stanmore HA7 2DY

- 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 Yohan Pathmanathan against an enforcement notice issued by the Council of the London Borough of Harrow.
 - The enforcement notice was issued on 16 January 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised construction of a part single and part two storey rear extension, part single and part two storey side extension and alterations to roof to form end gable; rear dormer, three roof lights in front roofslope (the Unauthorised Development)
 - The requirements of the notice are
 1. Demolish the Unauthorised Development or rebuild in accordance with planning application reference P/4064/15.
 2. Make good any damage caused to the building as a result of the above step and ensure that all materials used shall match those in the existing building.
 3. Remove from the Land all materials and debris from compliance with the aforementioned requirements of the notice
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been made under ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.
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Appeal B: APP/M5450/W/19/3243248

57 Bush Grove, Stanmore HA7 2DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Gita and Yohan Pathmanathan against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/2317/19 dated 22 May 2019 was refused by notice dated 14 October 2019
 - The application was for "Alterations to roof to form end gable: three rooflights in front roofslope; single and two storey side to rear extension; front porch (demolition of rear extension) (Retrospective)
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Decisions

Appeal A

1. It is directed that the enforcement notice is varied by the deletion of '6 months' and the substitution of '10 months' as the period of compliance.
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2. Subject to this variation, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under Section 177(5) of the Act as amended.

Appeal B

3. The appeal is dismissed.

Preliminary Matters

4. Appeals A and B essentially relate to the same development as the appellants sought retrospective consent for what has been constructed. Appeal B which is the Section 78 appeal brings together the various elements of the development that have taken place at the rear of the dwelling namely a rear dormer roof extension and extensions at ground and first floor levels. Appeal B does also include the extension to the front porch. So given the above points, and to avoid duplication, I have considered the Appeal A and Appeal B together.

The Planning History

5. On the 22 July 2015, a Certificate of Lawful Development¹ was issued for alterations to roof to form rear dormer for habitable space; two rooflights to front roofslope
6. On the 20 October 2015, planning permission² was granted for a single and two storey side and rear extension (the Planning Permission). The plan submitted with the planning permission forms the alternative requirement in the notice.
7. On the 18 November 2015, a Prior Approval³ was issued for a single storey rear extension extending 6 metres beyond the original rear wall 3.133 metres maximum height 2.89 metres high to the eaves

The appeal on ground (a), the deemed planning application and Appeal B

Main Issue

8. The main issue is the effect of the proposal upon the character and appearance of the appeal dwelling and the surrounding area.

Reasons

9. The Development Plan for the area includes the London Plan 2016 (the London Plan), the Harrow Core Strategy 2012 (the Core Strategy), the Harrow Development Management Policies Local Plan (2013)(the DMP). The Council has also adopted the Supplementary Planning Document :Residential Design Guide (SPD).
10. The appeal dwelling is a two storey semi-detached on Bush Grove which is in a largely residential area with a mix of detached and semi-detached dwellings. A number of the surrounding dwellings retain their original bay windows. As well as the appeal dwelling, there is an outbuilding to the rear of the garden. No 59 is a detached dwelling next door to the south and No 55 is the adjoining semi-detached dwelling. The appeal dwelling together with other dwellings in the

¹ P/2445/15

² P/4064/15

³ P/4766/15

street retain original two storey bay windows in the front and rear elevations. The adjoining semi at No 55 retains its original roof features.

11. Drawing No 57BG_P01 (the plan) provides details of what is described as the pre-existing rear elevation and the existing rear elevation and was considered by the Council as part of the retrospective planning application that was refused by the Council. The plan of existing shows the additions that have been carried out at ground, first floor and roof level. The appellants have also set out in their statement by reference to a series of images the differences between what has been built and what was previously approved.

The Dormer

12. Paragraph 6.68 of the SPD states "Generally, dormers should be subordinate features in the roof, should not overlap or wrap around the roof hips and should never rise above the ridge. The retention of a clearly visible section of roof around the sides of a dormer window including the upper corners has the effect of visually containing them within the profile of the roof."
13. The appellants consider that the dormer as existing is not substantially different from what was approved under the Certificate which can be considered to be a fall-back position. I have limited details about the Certificate granted in July 2015 other than at paragraph 6.d of his statement images at figure 1 of the dormer granted by the Certificate and the existing dormer. The appellant states that the main difference is that the dormer is wider and projects closer to the boundary with No 55. However, as well as that difference, the dormer has a patio style door with a railing outside. The increased width reduces further the extent to which the original roof can be seen.
14. The existing dormer is also not set down from the roof and the overall effect is to create the appearance of a third storey to the appeal dwelling rather than a dormer as a subordinate feature within a roof. The existing dormer is not "visually contained" as required by Paragraphs 6.68 -6.72 of the SPD and the Council calculates that the net increase in volume to the original roof is around 68m². I do therefore consider that for the reasons stated that there are significant differences between the fallback position and what has been constructed at dormer level.
15. As built, the dormer extension appears to fill the width of the original rear roof particularly with no physical boundary between the original roof of the appeal property and the adjoining semi-detached. The dormer also extends to roof height without a clearly visible section of roof either at the sides of the dormer or upper corners. When viewed from the rear garden, the dormer does not have subordinate features. I therefore do find that the dormer by itself is an incongruous feature due to its size, design and height.

Ground and First Floor

16. The existing rear development is said to incorporate the single storey extension granted under the Prior Approval as being permitted development under Class A of the Town and Country (General Permitted Development) Order 2015 and the appellant refers to this element as a subordinate addition. I accept that single storey ground floor extensions by themselves are not uncommon in the locality and can be subordinate additions but the existing development goes beyond a simple ground floor extension. The appellant seeks to rely upon Prior

Approval on 18 November 2015 as a fallback position. However, I share the Council's view that given what has been constructed, the Prior Approval cannot be considered in isolation and as a fallback position, I therefore attach little weight to it. Even if the elements of the first and ground floor extensions were considered separately, the appellants accepts that the ground floor element as built does not comply with the Prior Approval and refers to be main difference being as the height of the extension is 3.7m rather than 3.113m. By itself, the increase in height may not have been significant but the ground floor extension has to be viewed in the context of ground floor, first floor and the dormer at roof level. The increase in height in turn impacts upon the extent to which the roof of the first floor element cuts into the dormer.

17. The first floor element is described as modest in height and depth by the appellant. Nevertheless, its width does mean that its side wall extends right up against the first floor feature bay window and the roof overhang and guttering of the first floor element extend further over part of the bay window. The first floor element due to its width does overwhelm the existing bay window which also has railings of the dormer patio style window directly above it.
18. Paragraph 6.57 of the SPD states that where a property has previously been extended by way of a hip to gable end, a two storey side extension is inappropriate as they are incompatible with the design, character and bulk and appearance of the locality. I accept that in terms of visual harm, the development is to the rear of the appeal dwelling but there are views of the side of the appeal dwelling from the street and there are likely to be views from neighbouring dwellings of at least the upper levels of the development particularly the dormer.
19. Whilst some elements do comply with the Planning Permission, the extensions at ground and first floor level do appear bulky and out of scale with the original dwelling house. The overall effect is then compounded by the dormer which is not in itself a subordinate feature but dominates the roof scape. Whilst I accept that there are existing grants for different elements to the rear, the differences between what has been approved in terms of size, design and height and what has been built does not result in a cohesive development.
20. In conclusion, the combination of the two storey side to rear extension with the existing dormer and the ground floor rear extension do collectively result in a bulky, incongruous appearance due to the mass, scale and design to the rear of the appeal dwelling.
21. The front porch has been extended by around 0.4 metres from the previous porch. The Council has indicated that the front porch element of the planning appeal is acceptable and has not included the front porch in the enforcement notice. I see no reason to disagree with that view.

Overall conclusion

22. I conclude that the development in the ground (a) appeal and the section 78 appeal with the exception of the front porch would harm the character and appearance of the appeal dwelling and the surrounding area. The development does not comply with Policies 7.4(B) of the London Plan which amongst other things requires development to exhibit a high quality of design and respond positively to its surroundings in terms of its scale. Similarly, it would not comply with Policy CS1.B of the Core Strategy which amongst other things

states that extensions should respect their host building. It would also conflict with Policy DM1 of the DMP which refers to development achieving high standards of design and layout. The SPD requires extensions to harmonise with the scale and the architectural style of the original dwellinghouse. The appeal under ground (a) and the deemed application therefore fail and Appeal B is dismissed.

The appeal under ground (g)

23. This ground relates to the compliance period which is 6 months. The appellant had requested a period of 18 months due to a combination of personal family circumstances and the need to get quotes and the works themselves taking several months and the family moving out whilst works are done. In light of the ongoing Covid crisis, I did ask for further comments from the parties. The appellant has referred to health issues and an elderly parent and the need for her to avoid contact with builders and workforce and the elevated risk as the appellant and his family are from an ethnic community.
24. Whilst, I have taken all these factors into account, nevertheless, I do consider that 18 months would be excessive and it would not be reasonable to put all plans for remedial work on hold until Covid 19 is fully contained. Even if building work cannot commence at the present time, quotes can be obtained and decisions made about complying in light of the alternative requirements. Therefore, on balance, I do consider that a 10 month period would be a reasonable compliance period. The Council also has powers which would allow the period for compliance to be extended should the Council be satisfied that there were justifiable reasons to do so.

Conclusion

25. For the reasons given, and having regard to all other matters, I conclude that subject to the variation with regard to the period for compliance under ground (g) Appeal A fails and I shall refuse planning permission on the deemed application and uphold the notice. Appeal B is dismissed.

E. Griffin

INSPECTOR