
Appeal Decision

Site visit made on 14 September 2020

by D Fleming BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th November 2020

Appeal Ref: APP/Y5420/C/19/3232738
102 Wargrave Avenue, London N15 6UA

- 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 Moses Moskovits against an enforcement notice issued by the Council of the London Borough of Haringey.
- The enforcement notice was issued on 4 June 2019.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a part single part two storey rear extension.
- The requirements of the notice are:
 1. Demolish the part single part two Storey rear extension in its entirety and return the property back to its form before the unauthorised works were undertaken OR modify the development so that it accords with drawing numbers WA.102. PR.01 and WA.102.PR.02 REVA associated with planning permission HGY/2016/3986, granted by the Council on 26 January 2017.
 2. Remove from the land any debris resulting from carrying out step one.
- The period for compliance with the requirements is four 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.
- This decision supersedes that issued on 14 February 2020. That decision on the appeal was remitted for re-hearing and determination by order of the High Court.

Summary of Decision: The appeal succeeds in part on ground (a) and permission for that part is granted, but otherwise the appeal fails, and the enforcement notice is upheld as set out below in the Formal Decision.

Procedural and Preliminary Matters

1. The challenge to the previous Inspector's decision dated 14 February 2020 proceeded on ground (a) only but the whole Decision was remitted for re-hearing and re-determination by an Inspector. I therefore need to re-determine the ground (a) appeal and determine the ground (g) appeal.
2. At the site visit it was apparent that I did not have copies of some decision notices in relation to the appeal site and No 100 Wargrave Avenue. At the time when Statements of Case and Final Comments were submitted decisions on these applications were pending. I therefore asked, with the agreement of both parties, that they be submitted so that I had the most up to date planning history.
3. The appellant's surname is spelt 'Moskovits' on the appeal form but 'Moskovitz' and 'Moskovits' elsewhere by his agent. At the site visit the agent clarified that the correct spelling is 'Moskovits' and I shall proceed on the basis that the appellant is Mr Moses Moskovits.

The ground (a) appeal and the deemed planning application

Main Issues

4. The main issues are the effect of the development on (i) the character and appearance of the host building and the surrounding area; and (ii) the living conditions of the neighbouring occupiers at No 100 Wargrave Avenue, having regard to outlook.

Reasons

5. The appeal has been made in relation to what was once a two storey, mid terrace property, which is used as a single dwelling house. It has been extended with an additional storey and a loft conversion within the new roof space as well as by a full width, single storey rear extension and a half width, first floor rear extension. Wargrave Avenue and surrounding roads in the main comprise parallel rows of Victorian terraced housing bisected by similar roads at regular intervals. The housing is no longer uniform in appearance as many of the properties have been significantly extended and altered with additional third storeys and large rear extensions. This results in a new distinctive character and appearance of unexpected variety.
6. The single storey rear extension at the appeal site is approximately 6m in depth and has a height of around 3m. The first floor extension has a depth of approximately 5.5m along the boundary with No 100 Wargrave Avenue. Both extensions have a flat roof and a combined height of approximately 6.5m on the boundary with No 100.
7. There is an extensive planning history in relation to the appeal site and the neighbouring property at No 100 which, for the avoidance of doubt, I set out below:

The appeal site

- Erection of ground floor rear extension, granted 13 July 1999, subsequently implemented, (Ref: HGY/1999/0554);
- Proposed single storey ground floor rear extension, certificate of lawfulness issued 13 July 2019, subsequently implemented, (Ref: HGY/1999/0620);
- Erection of additional storey 'Type 3', granted 26 January 2017, subsequently implemented, (Ref: HGY/2016/3986, the '2017 permission');
- Retrospective planning application for retention of part single/part two storey rear extension, refused on 2 August 2019 (Ref: HGY/2019/1642);
- Erection of a part single and modified part two storey rear extension (retrospective application), granted 16 June 2020 subject to a condition that the modified part of the scheme be completed within six months of the date of the decision, not implemented, (Ref: HGY/2020/1102).

No 100

- Ground floor rear extension, 6m in depth, 3m high, Prior Approval, granted 2 September 2019, not implemented, (Ref: HGY/2019/2088);

Erection of a 'Type 3' roof extension and a ground floor rear extension with a depth of 3m, granted 24 September 2019, not implemented, (Ref: HGY/2019/2189).

The appeal site and No 100

- Proposed part single/part two storey rear extension at No 100 and the retention of a part single and modified (depth of first floor extension to be 3.6m) part two storey rear extension at No 102, refused on 2 January 2020, (Ref: HGY/2019/3106);
 - Proposed part single/part two storey rear extension at No 100 and the retention of a part single and modified (depth of first floor extension to be 3.3m) part two storey rear extension at No 102, granted 27 February 2020, not implemented, subject to a condition that the modified scheme should be implemented within six months of the date of the decision, (Ref: HGY/2020/0112).
8. From this history it is apparent that the Council's position has changed. It now no longer raises any objections to the single storey rear extension as built and finds that the first floor extension is acceptable provided the depth is reduced, amongst other matters. The appellant submits that the planning history merits significant weight and affords him a fallback position. I will return to the fallback position in due course, but I see no reason to disagree with the Council and as such, the principle point at issue is limited to the acceptability or otherwise of the first floor extension as built. In the first instance though, I briefly consider the single storey extension.
9. This has been erected using a similar facing brick and fenestration to the host property. It also has raised party walls and slightly overhanging eaves. To that extent, the simple design is acceptable as it does not diverge from the utilitarian appearance of the rear elevation of the host property. Although the depth of the extension is 6m, leaving less than half the garden space, it is similar to others in the immediate area including that at No 98 as well as those in nearby roads. As such, it preserves the character and appearance of the area and the effect on the living conditions of the occupiers at No 100 causes some loss of outlook but the harm is limited as it is single storey.
10. For these reasons I find the single storey rear extension accords with Policy DM1 of the Council's Development Management DPD, adopted July 2017 (the DPD), Policy SP11 of Haringey's Local Plan¹ (LP) and Policy 7.4 and 7.6 of The London Plan². These require amongst other matters that all development must achieve a high standard of design and should take account of the privacy and amenity of neighbouring uses.
11. Turning now to the first floor rear extension, from the 2017 planning permission it would appear that there used to be a first floor extension before the current development, as shown on the existing plans. The Council is unsure about this but offer no evidence to the contrary. The appellant submits copies of historic Google Earth satellite images from 2013 and 2018 to

¹ Haringey's Local Plan Strategic Policies 2013-2026, adopted March 2013, Consolidated with alterations since 2017

² The London Plan: The spatial development strategy for London, Consolidated with alterations since 2011, March 2016

demonstrate that it did exist. These images are rather hazy but they appear to show a first floor extension built on the party wall with No 100, covering part of the former ground floor extension, which extended further than the first floor extension. I am therefore satisfied that there was a previous first floor extension.

12. It would appear that the ground and first floor extensions were re-built following the implementation of the 2017 permission. The Council state that the depth of the first floor extension was increased from 3.3m to 5.5m and that it no longer included a window within the end wall. The depth of the ground floor extension was increased to 6m. At the site visit I saw that the first floor extension is harmful to the character and appearance of the host building and the surrounding area. This is due to the excessive depth of the extension, which means it is unduly prominent in the locality, and due to its scale and massing, which means it dominates the appearance of the rear elevation of the host building. This effect is further emphasised by the lack of any fenestration within the end wall of the extension resulting in a solid brick wall with no visual relief.
13. The immediate locality for the development is one of terraced houses backing onto another row of terraced houses. The intervening gardens are shallow in depth and much of the open space has been lost by the erection of substantial single storey extensions, similar to that at the appeal site. There are some first floor, extensions in the area, in particular at the opposite row of terraced houses but these do not extend as far as the extension at the appeal site. It is considered that the increased depth of the first floor extension at the appeal site unacceptably encroaches into the openness of the gardens area, further diminishing the character and appearance of the area.
14. Having regard to outlook, the most affected occupiers are those at No 100. The current occupiers raise no objections and indeed have planning permission for a part single/part two storey rear extension, which if built would extend as far as the single storey extension at the appeal site. The first floor, extension would extend 3.3m and would adjoin a modified first floor, extension at the appeal site. However, there is no guarantee that the current occupiers would remain or that the extension would be built. Although the existing nearest windows to the party wall serve non-habitable rooms, the increased depth of the first floor extension results in an overly dominant feature within the small garden and due to its position on the boundary, it significantly reduces the outlook from the garden. As such, it therefore causes unacceptable harm.
15. Having regard to a fallback position, the appellant submits, given the change in the Council's position concerning the single storey extension, that planning permission should be granted for this part of the development. This is not so much as a fallback position, rather the Council no longer defend the ground of appeal in relation to the single storey element.
16. There is no fallback for the first floor extension as built as there are no permitted development allowances for it. It is only open to the appellant to modify it so that it accords with either the existing 2017 permission plans or the approved plans from planning permission ref: HGY/2020/1102. I therefore attach little or no weight to the appellant's submissions on this point.
17. The appellant also submits that there are a number of similar first floor extensions in the area, which support his case. They have either been built or

have a live planning permission. However, from my inspection of the area, I find that both schemes referred to are not comparable. Those built at Nos 47-53 Elm Park Avenue are not as deep, have a shallow pitched roof and are built away from the party walls of neighbouring properties. The Council provided copies of the approved plans for Nos 88-90 Elm Park Avenue and these show a similar development to that at Nos 47-53.

18. Finally, personal circumstances are pleaded in that the first floor extension is needed as the appellant requires additional living space for a large family. However, personal circumstances can change whereas the development would be permanent. In my view they are insufficient to set aside the harmful effects of the first floor extension with a depth of 5.5m on the character and appearance of the area and the outlook of the adjoining occupiers.
19. In conclusion, I find that the first floor rear extension is an inappropriate addition that harms the character and appearance of the host property and the surrounding area. It therefore does not accord with Policy DM1 of the DPD, Policy SP11 of the LP and Policies 7.4 and 7.6 of The London Plan. The appeal on ground (a) therefore fails in respect of the first floor extension but succeeds in respect of the single storey extension. As the single storey extension is complete, no conditions are necessary.

The ground (g) appeal

20. Given my findings on the ground (a) appeal, this appeal is limited to the consideration that the time given to comply with the requirements of the notice in respect of the first floor extension is too short. It is therefore limited in scope to a consideration of the actual time needed to carry out the works specified in the steps.
21. The appellant submits that four months is not a reasonable period and that this should be increased to six months. The appellant's case relates to the time before the works can commence when a builder is appointed and alternative arrangements are made. Whilst the appellant's concerns are understandable, he provides no substantiated evidence to support his case. The requirements of the notice are either to demolish the extension or to modify it and I consider either option could be carried out by a competent builder in the time specified. An extension of time has not been justified in any detail and it is therefore considered that the time period for compliance is reasonable and as such I see no reason to vary it. The appeal on ground (g) therefore fails.

Conclusion

22. For the reasons given above I conclude that the appeal should succeed in part only, and I will grant planning permission for one part of the matter the subject of the enforcement notice, but otherwise I will uphold the notice and refuse to grant planning permission on the other part. The requirements of the upheld notice will cease to have effect insofar as they are inconsistent with the permission which I will grant by virtue of section 180 of the 1990 Act as amended.

Formal decision

23. The appeal is allowed insofar as it relates to the single storey rear extension 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 single storey

rear extension. The appeal is dismissed and the enforcement notice is upheld for the first floor rear extension and planning permission is refused in respect of this development on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

D Fleming

INSPECTOR