



Appeal Decision

Site visit made on 16 November 2020

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2020

Appeal Ref: APP/R5510/C/20/3250324

11 Parkfield Avenue, Hillingdon, Uxbridge, Middlesex UB10 0DF

- 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 Mithun Khanna against an enforcement notice issued by the Council of the London Borough of Hillingdon.
- The enforcement notice, numbered HS/ENF/016760, was issued on 11 March 2020.
- The breach of planning control as alleged in the notice is the development of an additional single storey extension.
- The requirements of the notice are:
 1. Demolish and remove the additional single storey rear extension shown hatched in blue on the plan attached.
 2. 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 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: 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.

The ground (a) appeal and the deemed planning application

Main issues

1. The main issues are the effect of the development on the living conditions of the occupants of the neighbouring residential properties, with regard to light and outlook; and, whether the development provides adequate living conditions for existing and future occupants, with regard to private amenity space.

Living conditions of neighbouring occupants

2. The extension that is the subject of the enforcement notice (the Notice) is a conservatory that extends off the rear of an existing single storey extension that extends the full width of the dwelling and projects off its original rear elevation.
3. The immediate neighbouring properties both have existing single-storey rear extensions. 9 Parkfield Avenue has a single rear extension similar to the original rear extension on the appeal property. The full depth of the subject extension extends beyond the rear elevation of this neighbouring rear extension. The boundary between the appeal property and No.9 is a solid block wall. Although the conservatory is largely glazed and the roof is hipped,

with its hip running away from the boundary wall, it nevertheless would appear as a dominant feature from No.9. This would be particularly discernible from No.9's side access, which runs between Nos.9 and 11, from where, in culmination with the depth of the original extension at the appeal property, the conservatory would appear overly dominant and create an uncomfortable sense of enclosure. Furthermore, it would unacceptably reduce the outlook from the rear garden of No.9. As such, it would significantly harm the living conditions of the occupants of No.9, with regard to outlook.

4. Notwithstanding the above, although the extension rises above the boundary wall, I do not consider that it does to such an extent that it would unacceptably restrict light entering No.9. Therefore, I do not consider that it would cause any unacceptable overshadowing effect or loss of light.
5. 13 Parkfield Avenue, which adjoins the appeal property, also has two rear extensions. However, the most rear extension does not extend from the original rear elevation of the dwelling as far as the subject extension does. As a consequence, the subject extension extends beyond the rear elevation of the extension at No.13. Nevertheless, it only extends beyond it by a relatively small amount and due to much of it being screened by the boundary I do not consider that it would unduly harm the living conditions of the occupants of No.13 with regard to outlook or light.
6. I have found that the extension does not cause any unacceptable harm to the living conditions of the occupants of No.9, with regard to light, and No.13, with regard to outlook and light. However, it nevertheless causes significant harm to the living conditions of the occupants of No.9 with regard to outlook. As such, it is contrary to Policies DMHB 11 and DMHD 1 of the London Borough of Hillingdon Local Plan Part 2 - Development Management Policies (the LP2) 2020, which seek to protect residential amenity.
7. I acknowledge the appellant's argument that the occupants of the neighbouring properties have no objection to the development, which is supported by the letter received from the occupants of No.13. However, my assessment of the appeal has been based on the living conditions of existing *and* future occupants.

Living conditions of existing and future occupants

8. Policy DMHB 18 of the LP2 states that all new residential development will be required to provide good quality and usable private outdoor amenity space and sets out minimum amenity space standards. For a 4+ bedroom house a minimum of 100sqm of private amenity space should be provided.
9. The Council state that the extension has reduced the private amenity space of the appeal property to 93 sqm, which is below the minimum standards. Although this shortfall is only relatively moderate it nevertheless falls below the minimum standards and therefore, in accordance with the development plan, fails to provide adequate private amenity space. There is no evidence before me to justify the lack of suitable provision.
10. I find therefore that the development fails to provide adequate living conditions for existing and future occupants, contrary to Policies DMHB11, which promotes good design, and DMHB 18 of the LP2.

Other Matters

11. I noted during my site visit that there are a number of similar extensions within close proximity of the appeal site. However, the details of the planning history of these properties is not before me and therefore I cannot be certain that they benefit from planning permission. Accordingly, I afford this matter very limited weight.
12. I also appreciate the appellant's claim that the builder told him that the extension does not require planning permission. However, ignorance in this matter is no defence. It was open to the appellant to contact the Council to ascertain for certainty whether or not it did indeed require planning permission, which he failed to do so.

Conclusion

13. For the reasons given above, I conclude that the ground (a) appeal should fail and the deemed planning application should be refused.

Formal Decision

14. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Alexander Walker

INSPECTOR