
Appeal Decision

Site visit made on 19 May 2021

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 23 June 2021

Appeal Ref: APP/T5150/C/20/3249421

47 The Fairway, Wembley HA0 3LP

- 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 K Sabaratnam against an enforcement notice issued by the Council of the London Borough of Brent.
- The enforcement notice, numbered E/19/0071, was issued on 13 February 2020.
- The breach of planning control as alleged in the notice is *Without planning permission, the erection of a single storey wrap around front, side and rear extension and the provision of a new hard standing to the front of the premises.*
- The requirements of the notice are to:
 - (1) Demolish the single storey wrap around front side and rear extension and remove all the associated debris and material from the premises OR Remove the roof of the single storey wrap around front side and rear extension and reduce the front and side walls of the extension to 2.6m and rebuild the extension as per planning permission 18/0119 dated 18th June, 2018.
 - (2) Alter the front garden layout by: removing the hard surface and planting shrubs and grass in its place; and by installing the new castellated brick front boundary wall ensuring that the front garden layout reflects that also shown on the attached Plans (RPA/47/TF/302 and RPA/47/TF/303).
- The period for compliance with the requirements is 4 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a),(f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary Decision: the appeal is dismissed and the enforcement notice is upheld with a variation.

Preliminary Matter

1. The appellant identifies his interest in the land as that of being the owner, a fact disputed by the Council who have provided details of the registered proprietor at HM Land Registry. Unless the appellant has a relevant interest in the land or is a 'relevant occupier', no right of appeal arises. It appears that the appellant is a director of the company that is the registered proprietor.
2. Were my conclusions different on the substantive issues in the appeal, this aspect might have warranted further investigation. As it is, I am prepared to infer that the appellant, as a director of the owning company, will have (and have had at the material times) a licence to occupy the property. Although the Council aver that the appellant has not been in actual occupation, the Companies House information provided in support of this contention does not confirm this to be the case. The information that is provided in the Companies House details is a 'correspondence address' rather than any assertion as to occupation. The Council assert that the property is now occupied by tenants,

but the position at the time of issuing and serving the notice and subsequently of the appeal being made is unclear.

3. The appellant gave the appeal site as his own address in his appeal form. In the circumstances and based on the limited information before me it appears that, although the appellant is not the owner of the appeal site as he asserts himself to be, he is (or was) nonetheless a relevant occupier for the purposes of standing to bring this appeal. Hence I shall proceed to determine the substantive issues.

Main Issues

4. The Council's reasons for issuing the notice identify two distinct areas of concern. The first relates to the impact of the development on the character and appearance of the area, including the Sudbury Court Conservation Area within which the property lies. Therefore the effect of the development on the character or appearance of the area and Conservation Area is the first main issue in the appeal on ground (a).
5. The second main issue on ground (a) relates to the impacts of the development on the outlook and light available to the neighbouring property at no. 49 and thus the effects of the development on the living conditions of the neighbouring occupants.

Reasons

The appeal on ground (a): the deemed planning application

Character and appearance

6. Sudbury Court Conservation Area consists largely of mock-Tudor semi-detached dwellings dating from the inter-war period, generously designed and with ample space to the front and rear resulting in a green and spacious suburban neighbourhood. Several property extensions have been built and the area is the subject of an Article 4 Direction restricting the exercise of certain permitted development rights.
7. The extension to the side of no. 47 comprises a flat roof above a brick frontage, with weatherboarding and guttering to the top. The roof of the extension protrudes noticeably above the eaves and slope of the adjoining porch area, with a brick parapet wall to the side protruding a few brick courses above the flat roof. The overall result is that the extension does not achieve a subsidiary or complementary relationship with the house, but instead dwarfs the porch area to which it is attached and dominates the appearance of the house at the ground floor, sitting considerably forward of the original front wall. Its excessive height means that it does not harmonize with the building and appears out of place in the streetscene, contrary to the requirements of the Council's Sudbury Court Conservation Area Design Guide of December 2015, and of policies DMP1 and DMP7 of the Brent Development Management Policies Document of 2016 and associated Supplementary Planning Document no. 2 of 2017 relating to residential extensions and alterations.
8. I have had regard to nearby dwellings brought to my attention by the appellant as examples of where similar extensions have been constructed either with permission or without enforcement action having been taken. However none of them appears on all fours with the extension constructed here, each differing

from the extension at no. 47 in one or more material ways, such as being set back from the front elevation or with a greater gap to the side. Therefore none of these other properties is sufficient to convince me that the extension constructed here is in keeping with the character of the Conservation Area.

9. I have also had regard to the appellant's stated difficulties in meeting Building Regulations requirements in reference to the extension that has been permitted at the site, and the apparent request from the planning authority to match the window heights and cill levels with the existing front elevations. It is not said that the approved plan has proved impossible to construct and in any event these matters are insufficiently weighty to overcome the harm to the character and appearance of the Conservation Area that I have identified.
10. Turning to the works to the front garden, the appellant refers to works undertaken to construct the approved front wall, although it is not said that there was no breach of planning control in this regard at the time of issuing the notice. The Sudbury Court Conservation Area Design Guide raises an expectation that the formation of hard surfaces will only be permitted where they form part of an acceptable off-street parking scheme, and this in turn anticipates that at least half of the front garden area will be retained and suitably landscaped with soft planting features. This is because of the importance of the residential gardens to the character of the Conservation Area, providing aesthetic and environmental value. The excessive paving at the appeal property, with the result that one of the retained trees stands in the paved driveway area rather than in the soft landscaped area as anticipated, detracts from the otherwise pleasantly verdant location and thus also from the character and appearance of the Conservation Area.
11. Therefore I find that the development alleged in the notice has caused harm to the character and appearance of the Conservation Area. This is contrary to the provisions of the development plan for the area and is a matter to which I am enjoined to pay special attention by virtue of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Living conditions

12. The Sudbury Court Conservation Area Design Guide requires that extensions should not impact on the amenity of immediate neighbours. Although an extension with a large expanse of facing brickwork has been permitted at the appeal site, what has been constructed is considerably taller than that permitted as well as exceeding the Supplementary Planning Document's guidance of no more than 3m high boundary roofs. The extension closely abuts the neighbouring dwelling at no. 49 and the height of the parapet wall adjoining the habitable rooms in the ground floor of that dwelling results in an unacceptable loss of outlook to those neighbours. The resulting impact on the living conditions of the neighbours is unacceptable and contrary to the provisions of the development plan, specifically the requirement of Policy DMP1 for development to provide high levels of internal and external amenity.

Conclusion on the ground (a) appeal

13. Therefore I conclude on the ground (a) appeal and the deemed application for planning permission that such permission should be refused and the appeal on this ground dismissed.

The appeal on ground (f)

14. The purpose of the notice is to remedy the breach of planning control, and its requirements relating to the extension are framed in the alternative, requiring either demolition or alteration so as to accord with plans subject to which a planning permission was previously granted.
15. The appellant suggests a further alternative. Rather than reducing the height of the flat roof extension down to that approved under the planning permission, it is suggested that the projecting eaves – barge board are reduced, so that it is flush with the front of the extension. As to Step 2 it is suggested that the front wall be kept as built, but the hardstanding reduced and the landscaping increased. Steps have since been taken to alter the wall, and the appellant now suggests that the removal of the excess hardstanding is unnecessary.
16. The appellant sets out that the finished floor level of the extension matches that of the original house, said to be as a result of guidance and advice given by the Council, and consequently that lowering the roof will lead to an unacceptably low ceiling height internally.
17. I do not find that any of the steps suggested by the appellant would achieve the purpose of the notice to remedy the breach of planning control. If an acceptable ceiling height is to be achieved then it appears open to the appellant additionally to take steps to reduce the internal floor level. As to the hardstanding I have set out above under ground (a) why that is unacceptable, and the appellant does not suggest that the lesser steps proposed would achieve the purpose of remedying the breach of planning control. Thus I am unable to conclude that lesser steps would achieve the purpose of the notice and accordingly the appeal on ground (f) must fail.

The appeal on ground (g)

18. A period of four months is specified in the notice to comply with its requirements. The property appears to be tenanted and the appellant draws my attention to this and the difficulty of finding builders to visit and undertake work. As I envisage, following on from my comments under the ground (f) appeal, that the works contract may involve contracting for internal works, I accept this difficulty. Accordingly I shall allow the appeal on ground (g) to vary the period for compliance to six months, as sought by the appellant.

Conclusion

19. For the reasons given above I conclude that the appeal should not succeed, subject to varying the compliance period. I shall uphold the enforcement notice with a varied compliance period and refuse to grant planning permission on the deemed application.

Formal Decision

20. It is directed that the enforcement notice be varied by the substitution of "6" for "4" in Schedule 5 of the notice. Subject to that variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Laura Renaudon

INSPECTOR