



Appeal Decision

Site visit made on 22 June 2021

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2021

Appeal Ref: APP/T5150/C/20/3255688

131 Carlyon Road, Wembley HA0 1HU

- 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 Mrs Poonam Pathak against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice was issued on 4 June 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey rear extension linking an existing single storey rear extension and outbuilding.
 - The requirements of the notice are:
STEP 1 Demolish the unauthorised single storey rear extension to the premises.
STEP 2 Remove all items, materials 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 six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) (c) and (f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed, the enforcement notice is quashed 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 development already carried out, namely the erection of a single storey rear extension linking an existing single storey rear extension and outbuilding at 131 Carlyon Road, Wembley, HA0 1HU as shown on the plan attached to the notice.

Preliminary Matter

2. Since the appeal was submitted the Government has published the revised National Planning Policy Framework (the Framework). Both the appellant and the Council were given an opportunity to comment on any relevant implications for the appeal, and any comments received have been taken into account.

Background

3. An application for prior approval was previously submitted to the Council for a single storey extension measuring 6m in depth for which it was determined that prior approval was not required¹. The block plan submitted with that application did not show the outbuilding and showed a rectangular extension projecting parallel with the side wall of the main two-storey part of the house.

¹ 19/0731

4. Where prior approval is not required the development must be carried out in accordance with the information provided. In this case the extension, as built, is not parallel with the side wall of the main part of the house and links an existing single storey extension with an existing outbuilding, with the total depth of the resulting development (extension) being around 12.5m. It has not therefore been carried out in accordance with the information provided in the application for prior approval.
5. At my site visit I observed that the external walls and roof of the extension were complete but there were no doors and windows and internally the building was not finished or in use.

The appeal on ground (c)

6. The appeal on this ground is that the matters alleged in the notice do not constitute a breach of planning control. The burden of proof is on the appellant to demonstrate that the matters alleged in the notice do not constitute a breach of planning control.
7. By virtue of section 55(1) of the 1990 Act the meaning of 'development' includes the carrying out of building, engineering, mining, or other operations in, on, over or under land and the making of any material change in the use of any buildings or other land. Section 57(1) provides that planning permission is required for development.
8. Planning permission is granted by virtue of permitted development rights for certain types of development subject to specified conditions and limitations. Article 3 Schedule 2 Part 1 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) relates to development within the curtilage of a dwellinghouse and grants permission for the enlargement, improvement, or other alteration of a dwellinghouse.
9. In order to be permitted development the proposed development must meet *all* [my emphasis] the limitations and conditions under each class relevant to the proposal, in this case those in Class A.
10. At 12.5m in depth, the development would fail to meet the Class A.1.(ja) requirement as the total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds the limits at A.1.(f)(i) and (g)(i). Hence it would not be permitted by Class A of Part 1 of Schedule 2 of the GPDO.
11. It is development for which express planning permission is required, and that could only be granted on application made to the local planning authority in the first instance.
12. The appellant referred to cases relating to the erection of outbuildings, concerning Part 1 Class E of the GPDO. However, an appeal on ground (c) relates to the development as built and described in the enforcement notice, since the development is an extension and not a detached outbuilding those cases have no bearing on my assessment.
13. I conclude that the appellant has failed to demonstrate that the matters alleged in the notice do not constitute a breach of planning control. The development is not development that is permitted by any development order and there is no

record of planning permission having been granted for it. The appeal on ground (c) therefore fails.

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

14. The main issues are the effect of the development on (i) the character and appearance of the area and (ii) the living conditions of neighbouring occupants with particular regard to outlook.

Character and appearance

15. 131 Carlyon Road is a modest semi-detached house located in a suburban environment consisting of pairs of semi-detached houses constructed from red brick under tiled hipped roofs with relatively long gardens to the rear.
16. At my visit I observed that the front elevations of the houses remain relatively unaltered however, to the rear many of the houses have been extended and altered and include outbuildings within the gardens of varying size and design. Flat roof forms are not uncommon either in extensions to the houses or outbuildings, as seen in the aerial photographs submitted by the appellant.
17. The infill extension itself is modest in scale and straightforward in appearance, constructed from brick to match the house and with a flat roof form which is broadly the same height as the extension and outbuilding it links. Viewed from within the garden, I do not find that the overall effect represents a dominant or imposing feature which results in a sense of over development of the original dwelling and there remains a reasonable amount of usable garden space.
18. The infill extension is scarcely visible from the public highway and consequently, there is no harm to the street scene. The principal views of the extension are from the upper floor windows of the nearest neighbouring houses and there may be distant views from the flats on the opposite side of the canal, albeit those would be filtered by existing trees.
19. Whilst cumulatively the area covered by buildings at the rear of the house is reasonably significant, the mass of the overall development is, in my view, only appreciated in aerial views, which as already stated are limited to the nearest neighbouring houses. In this respect, I note the representations of support from the neighbours on either side.
20. Overall, given the limited public views and seen in the context of the variety of developments to the rear of houses in the locality, I find that the extension causes no material harm to the character and appearance of the house or area generally. There is therefore no conflict with Policy DMP1 of the London Borough of Brent Local Plan November 2016 Development Management Policies (DMP) which requires development to be of a scale and density which complements the locality. Nor is there conflict with the design aims of the Framework.

Living conditions

21. The extension does not project beyond the rear elevation of the single storey rear extension at the rear of 129 Carlyon Road consequently, there is no overbearing impact on the occupant's outlook. There is an existing outbuilding on the boundary with 133 Carlyon Road, given that, and as the extension is set away from the boundary with 133 Carlyon Road, separated by a driveway, I

find there is no overbearing impact on the outlook from within either the house or garden at no.133.

22. Consequently, there is no conflict with the overall amenity protection aims of Policy DMP1 of the DMP, the Framework or the Council's SPD².

Conditions

23. As the development is largely externally complete a time limit or plans condition is not necessary nor is a condition regarding external materials.

Conclusion

24. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the single storey rear extension as described in the notice. The appeal on ground (f) does not therefore fall to be considered.

Felicity Thompson

INSPECTOR

² Residential Extensions & Alterations SPD 2 Jan 2018