



Appeal Decision

Site visit made on 16 September 2021

by **B.S.Rogers BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 September 2021

Appeal A Ref: APP/R5510/C/20/3258383

Appeal B Ref: APP/R5510/C/20/3258384

43 Wentworth Drive, Pinner, Ruislip, HA5 2PX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - Appeal A is made by Mr Tarique Hamid and Appeal B by Mrs Amina Tarique against an enforcement notice issued by the Council of the London Borough of Hillingdon.
 - The enforcement notice was issued on 17 July 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the development of a single storey side and rear extension creating a wrap around side and rear extension.
 - The requirements of the notice are A. (i) demolish and remove the single storey side and rear extension hatched in blue on the plan attached. (ii) remove from the land all debris, waste, building materials, plant equipment and machinery resulting from demolition works OR B. (i) amend the development so it accords with the plans approved under planning ref: 17419/APP/2019/140. (ii) 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 3 calendar months.
 - Both Appeal A and Appeal B are proceeding on the grounds set out in section 174(2)(a), (c), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decisions

1. It is directed that the enforcement notice be varied by:-

- i. Substituting for 4.A(i) "Demolish and remove the forwardmost part of the single storey side extension cross-hatched in black on the plan attached;
- ii. Substituting the attached plan for the plan attached to the notice; and
- iii. Substituting "Nine (9) calendar months after this notice takes effect" for the time for compliance.

Subject to these variations, the appeals are dismissed and the enforcement notice is upheld. Planning permission is refused on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

Background

2. The appeal property is a detached bungalow fronting Wentworth Drive, with a flank elevation to Mount Park Road. In April 2019, the Council granted planning permission for a single storey side/rear extension (ref: 17419/APP/2019/140). This was to replace a conservatory and a detached garage located

between the bungalow and the adjacent semi-detached house, no.45 Wentworth Drive. The development as carried out differs from the approved scheme, most significantly in the width and height of the extension.

The appeals on ground (e)

3. The appellants submit that the enforcement notice was not properly served on them either by post or email; it appears that they were at the time living elsewhere at a temporary address. The Council disputes this and indicates a copy of the notice was sent to the correct address. Either way, the appellants become aware of the notice in good time to pursue the appeals and on this basis, it does not appear that they were prejudiced. The appeals on ground (e) fail.

The appeals on ground (c)

4. The appellants concede that the development does not fall within the scope of permitted development under Class A of Part 1 to Schedule 2 to the Town and Country Planning (General Permitted Development)(England) Order 2015 [GPDO], in that the new work is more than half the width of the original dwelling. It is also the case that the new work does not solely extend beyond a wall forming a side elevation of the original dwellinghouse – it also extends to the rear, creating a wrap around extension. Furthermore, the eaves of the extension are higher than those of the original dwellinghouse.
5. It is claimed that the retention of one of the original garage walls renders this part of the development a conversion but the extent of the new work, including new walls on three sides and a new roof, is so significant that to my mind it amounts to a new building. In any event, the operations were carried out as a single development and the whole scheme would need to comprise permitted development for ground (c) to succeed.
6. It is further submitted that the variations from the scheme approved in 2019 are *de minimis*. However, it is clearly apparent that both the dimensions and the design of the scheme as built are very significantly different from that as approved and, as such, this submission is of little merit. The appeal on ground (c) fails.

The appeals on ground (a) and the deemed applications

7. The National Planning Policy Framework [NPPF] seeks to achieve well-designed places. In particular, planning policies and decisions should ensure that developments are visually attractive. Policy BE1 of the Local Plan Part 1 – *Strategic Policies* requires new development to maintain the quality of the built environment. Policies DMHD1 and DMHB11 of the Local Plan Part 2 – *Development Management Policies* require new development to be designed to the highest standards and to have regard to neighbouring properties. In particular, extensions should respect the design and materials of the original house and appear subordinate to the main dwelling. Side extensions should not exceed half the width of the original property.
8. Accordingly, the main issues in this case are the impact of that part of the development adjacent to no.45 Wentworth Drive on the character and appearance of the area and on the living conditions of the neighbouring residents.

9. The scheme as approved in 2019 comprised a side extension of modest width, leaving a gap of around 1.8m to the common boundary with no.45. It had a significant set back from the front elevation of the original bungalow. Although it had a flat roof, compared to the hip roof of the bungalow, its eaves ran through at the same level as the bungalow's eaves. As such, it appeared subsidiary to, and in reasonable harmony with, the original dwelling.
10. Viewed from Wentworth Drive, the development as built infills almost the whole of the gap to the common boundary with no.45. Its width is significantly exaggerated by being built flush with the front wall of the original dwelling, rather than having a meaningful set back. Its eaves are considerably higher than those of the original dwelling, resulting in a clumsy and obtrusive junction between the original dwelling and the extension. It fails to respect the design of the original dwelling and appears overbearing and unsightly. The NPPF advises that development which is not well designed should be refused. I have considered whether planning conditions, such as requiring landscaping to be provided, could suitably mitigate the harm but consider this not to be the case.
11. The appellants indicate that there had been discussions with the Council about retaining and converting the original garage and linking this to the main dwelling. However, even had this been agreed, I feel sure that it could have been accomplished in a more visually acceptable manner. It is submitted that the appellants do not fully understand the planning process. However, they appear to have had an agent acting for them and they appear to have been ill-advised to proceed without proper authority. I note that the Council informed them in November 2019 that the works were unauthorised. The NPPF seeks to ensure that the quality of approved development is not materially diminished between permission and completion, as is the case here.
12. I have also taken account of the variety of dwelling styles in the area but have seen nothing to justify allowing a poor design to be retained. In my view, the development unacceptably harms the character and appearance of the area.
13. Turning to the second main issue, the adjacent dwelling, no.45 is at a significantly higher level than the appeal property. Because of the presence of the previous garage, whose side wall has been retained and whose height equated to that of the present extension, I consider the forwardmost part of the development to have a negligible additional impact on the living conditions of the neighbouring residents.
14. The rear part of the extension still retains a significant gap to the common boundary and in my view appears unobtrusive. In any event, there is a very substantial close boarded fence along the boundary which appears to have a greater impact on the living conditions at no.45 than the extension itself.
15. On the second main issue, I conclude that the development does not unduly harm the living conditions of neighbouring residents at no.45.
16. Although I have found in the appellants' favour on the second main issue, my conclusion on the first main issue is of substantially greater weight in this appeal.
17. A significant consideration in this case is the need for the additional accommodation to help address the special needs of a family member. I have had regard to both the Human Rights Act 1998 and the Equality Act 2010 in

considering the need to provide suitable accommodation. The scheme as approved in 2019 was designed to meet the family's needs. I accept that such needs might change over time and that the additional floorspace might now be desirable or even essential. As such, an extension of greater width than that approved in 2019 would, to my mind, be justifiable. However, I see no reason why the additional space needs to be provided in a manner which disregards national and local design policies.

18. Taking all the above factors into account, I find that on balance the development unacceptably harms both the character and appearance of the area, contrary to the aims of the development plan and of national policy, and that the appeals on ground (a) and deemed applications should fail.

The appeals on ground (f)

19. The appellants have not proposed any lesser steps than those set out in the notice. Their submission that planning conditions could overcome the objections to the scheme is a matter that I have considered, and discounted, above. They also ask that I specify the dimensions that would be acceptable. However, it is not my role to re-design the scheme and there is no alternative scheme which has been put before me.
20. I have set out my objections to the existing development in para.10 above and these do not apply to the rear part of the extension. Accordingly, I shall vary the notice to delete the requirement to demolish this part of the development. It remains open to the appellants to seek approval for a suitable re-design to the forwardmost part of the development in the timescale set out below.
21. To this limited extent, the appeals on ground (f) succeed.

The appeals on ground (g)

22. Whilst the unauthorised development could be demolished within the stipulated three months, it appears unrealistic to carry out the permitted alternative of complying with the 2019 planning permission within such a short timescale. Furthermore, as indicated above, I see some prospect of the appellants negotiating modifications to the development that would prove acceptable. Any such modifications would require planning permission. Accordingly, I consider an extended period of nine months would be appropriate in this case. To that extent, the appeals on ground (g) succeed.

B.S. Rogers

Inspector



Plan

This is the plan referred to in my decision dated: 27 September 2021

by **B.S.Rogers BA(Hons) DipTP MRTPI**

Land at: 43 Wentworth Drive, Eastcote, Pinner, HA5 2PX

Reference: APP/R5510/C/20/3258383/84

Scale: nts

