



Appeal Decisions

Site visit made on 12 October 2021

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2021

Appeal A: APP/T5150/C/20/3263423 **106 Valley Drive, London NW9 9NS**

- 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 Asmat Sungeen against an enforcement notice issued by the Council of the London Borough of Brent.
- The enforcement notice was issued on 13 December 2020.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a two-storey side extension, part two-storey and part single storey rear extension, loft conversion with rear dormer window to dwellinghouse.
- The requirements of the notice are to:
STEP 1 Demolish the unauthorised development to dwellinghouse and remove all items, materials and debris associated with the unauthorised development from the premises.
STEP 2 Restore the premises back to its original condition before the unauthorised development took place.
- The period for compliance with the requirements is 6 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.

Appeal B: APP/T5150/W/20/3263408 **106 Valley Drive, London NW9 9NS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Asmat Sungeen against the decision by the Council of the London Borough of Brent.
- The application Ref 20/2410, dated 7 August 2020, was refused by notice dated 6 October 2020.
- The development proposed is described as 'Amendments in planning Application No: 17/1205 (joint construction of prior approval and planning permission)'.

Decisions

Appeal A - APP/T5150/C/20/3263423

1. It is directed that the enforcement notice is corrected by:
 - (1) Deleting STEP 1 in Schedule 4 of the enforcement notice and replacing it with the following: *STEP 1 Demolish the two-storey side extension, part two-storey and part single storey rear extension and rear dormer window and remove all items, materials and debris associated with their demolition from the land.*
2. Subject to this correction, the appeal is allowed 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 erection of a two-storey side extension, part

two-storey and part single storey rear extension, at 106 Valley Drive, London NW9 9NS.

3. The appeal is dismissed and the enforcement notice is upheld as corrected insofar as it relates to the rear dormer window and planning permission is refused in respect of the rear dormer window on the application deemed to have been made under s177(5) of the 1990 Act as amended.

Appeal B - APP/T5150/W/20/3263408

4. Appeal B is dismissed insofar as it relates to the loft conversion with rear dormer window and planning permission is refused for the rear dormer window. The appeal is allowed insofar as it relates to the two-storey side and rear extension, garage conversion and planning permission is granted for the erection of a two-storey side and rear extension and garage conversion at 106 Valley Drive, London, NW9 9NS in accordance with the terms of the application, Ref 20/2410, dated 7 August 2020, and the plans submitted with it, so far as relevant to that part of the development hereby permitted and subject to the following condition:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

The Enforcement Notice

5. The requirements of an enforcement notice should follow logically from the allegation. Whilst there is no suggestion that the appellant does not know what he is required to do, in the interests of clarity I have corrected Step 1 of the requirements so that it clearly refers to those matters which constitute the breach of planning control.
6. Since such a correction neither enlarges nor reduces the scope of the requirements there is no injustice caused.

Preliminary Matters

7. In respect of Appeal A, the terms of the appeal on ground (a) derive directly from the alleged breach of planning control set out in the notice and as built. Nevertheless, I do have the power under s177(1)(a) of the 1990 Act to grant planning permission for any part of the matters stated in the notice.
8. The description of development given in the banner heading above, in respect of Appeal B, is taken from the original planning application form. For the purposes of my decision, I have used the description from the Council's decision notice as it more accurately describes the proposed development. I have however deleted the words *retention of* since this does not describe an act of development.
9. The Council pointed out and I observed at my visit the discrepancies between the development as built, subject of the enforcement notice (Appeal A) and the plans submitted with the planning application (Appeal B). For clarity, I have considered Appeal A on the basis of my site observations and Appeal B on the basis of the submitted plans.
10. Ground (a) is that planning permission should be granted for the matters stated in the notice. Since the considerations in Appeal A are the same as for Appeal B I have considered the appeals together.

Appeal A on ground (a) and the deemed planning application and Appeal B

Main Issues

11. The main issues are the effect of the development on (i) the character and appearance of the area and (ii) the living conditions of occupants of the adjoining houses with particular regard to outlook and sunlight/daylight matters.

Reasons

Character and appearance

12. The appeal site is in a residential area, which is generally characterised by semi-detached dwellings of similar proportions, arranged behind a discernible building line. The dwellings incorporate a similar pallet of materials with the main external materials being brick and render with the dwellings typically having hipped roofs and bay windows.
13. Each pair of houses in the road are attached at ground floor level to the adjoining pair by single storey garages to their sides, with a number of houses having extended above and/or to the front of the garages including the adjoining 108 Valley Drive.
14. To the rear I observed that houses in the vicinity of the site include extensions of varying design including single storey flat roof and first floor extensions, such that the rear elevations do not have a uniform appearance. However, whilst I noted a small number of rear dormers, such extensions are not characteristic of the immediate locality.
15. Policy DMP1 of the London Borough of Brent Local Plan November 2016 Development Management Policies (DMP) sets out that development will be acceptable provided that it is, amongst other things, of a scale, detailing and design that provides high levels of internal and external amenity and complements the locality.
16. At ground floor level the side part of the extension, facing the street, includes a bay window, which broadly follows the building line of the ground floor extension at the neighbouring no.108 and projects no further forward than and is of a similar appearance to the existing bay window. Whilst the first-floor element is set back by only 1.7m as opposed to the 2.5m set out in the SPD¹, the roofline is lower than the main house and it incorporates materials which match those used in the existing house.
17. Consequently, whilst the extension adjoins the neighbouring no.108 essentially resulting in a terracing effect, I consider that viewed from the street, the development appears as a subservient addition which does not detract from the appearance of the house or streetscene.
18. To the rear the single storey element has a flat roof and straightforward appearance, constructed from materials to match the house. Although it exceeds the dimensions set out in the SPD it complies with the overall aims to respect the character and size of the house.

¹ Residential Extensions & Alterations SPD 2 Jan 2018

19. The first-floor part has a hipped roof and is broadly similar in design to that at no.108 albeit larger. As built, it projects beyond the rear of the neighbouring extension and is slightly elevated above it. Whilst I was unable to see at my visit whether the side elevation of the rear first floor element which faces no.108 had been rendered, viewed in context with the varied rear elevations and given the use of materials for the most part, and a roof form to match the existing house, I consider it causes no material harm to the appearance of the house or area.
20. However, the development includes a substantial dormer which occupies a significant proportion of the rear roof slope. As a result of its scale, box-like form, and relationship with the first-floor extension, it appears as a prominent and awkward addition within the roof slope, poorly related to the appearance of the house or character of the area.
21. Whilst the rear elevation of the house is not readily seen in wider public views, the dormer is clearly visible from neighbouring dwellings and their gardens because of its elevated position. In such views, the dormer will appear as a discordant and unduly prominent feature.
22. Given my above findings, I consider that the development both as built and proposed, without the dormer, would have an acceptable effect upon the character and appearance of the house and the area. Therefore, there would be no conflict with the design principles set out in Policy DMP1 of the DMP or the National Planning Policy Framework (the Framework). It would also conform overall to the guidance set out in the Council's SPD.

Living conditions

23. The rear first-floor element projects beyond the rear of no.108 by a modest amount, in close proximity to a reasonably large first floor window. However, whilst the extension is visible from this window and notwithstanding the exposed blockwork, since the outlook from the window offers otherwise wide and unobstructed views, I find there will be no materially harmful overbearing impact on the outlook from within the house.
24. The ground floor extension, where it adjoins no.108, projects beyond the rear wall by a very small amount, with the larger section set away from the shared boundary. Whilst the extension is elevated given the separation distance, I find there is no harm as a result of an overbearing impact on the outlook from within the house or garden of no.108.
25. The rear elevations of the appeal property and neighbouring houses face broadly north west. Consequently, given the orientation of no.108, broadly south west of the appeal site, I consider there is no harm as a result of overshadowing or loss of daylight.
26. The ground floor extension adjoins and runs along the shared boundary with 104 Valley Drive and projects beyond the rear elevation of no.104 by around 1.3m. Given the modest projection and since views out over the garden offer an otherwise open aspect, I find there is no harm as a result of an overbearing impact on the outlook from within the house or garden at no.104.
27. The extension is located broadly west of no.104 however, because of its single storey, flat roof form and modest projection, I find that there will be no

materially harmful effect as a result of overshadowing of either the house or garden nor will the extension reduce the amount of daylight no.104 receives.

28. Overall, for the reasons given I conclude that the extensions cause no material harm as a result of an overbearing impact on the outlook, overshadowing or loss of daylight to 108 and 104 Valley Drive. Therefore, there is no conflict with the amenity protection aims of Policy DMP1 of the DMP or Framework. The development also conforms with the overall aims of the SPD to ensure there is no harm to the living conditions of neighbours by reason of loss of light or outlook.

Other Matters

29. Third party concerns were raised about loss of privacy due to the raised patio. However, the houses are located in a suburban environment where some mutual overlooking of homes and gardens is inevitable, and it seems likely that there would have been some overlooking from the windows in the house prior to the development being carried out. As such, I find there is no harm as a result of loss of privacy and note that the Council also identified no harm in this regard.
30. Concerns were also raised in respect of The Party Wall etc. Act 1996, the ability to access property for maintenance purposes, damage to property and the suitability of guttering. However, whilst such concerns are understandable these are private matters which have no bearing on the planning merits of the development and could not justify the dismissal of the appeals. Similarly, the misgivings expressed about the Council's handling of the case are separate from these appeals.
31. Matters relating to whether the extensions constitute permitted development are not relevant since the appellant does not seek to demonstrate that the development constitutes permitted development. Further, the outbuilding at the bottom of the garden is not subject of these appeals.
32. Since the appeal development is located within close proximity to a neighbour whose health and wellbeing is a concern, I have had regard to this in my assessment. However, while taking this into account, the proportionate response and that supported by the Development Plan is that the appeals should be allowed.

Conclusion on Appeal A on ground (a) and Appeal B

33. For the reasons given, I find that the extensions as built and proposed are unacceptable in respect of the rear dormer window. However, since it appears to me that the removal or omission of the dormer window would resolve the harm, I consider it is appropriate to issue a split decision in both cases. I therefore intend to grant planning permission under s177(5) of the 1990 Act for the extensions with the removal of the dormer in respect of Appeal A and permission for the extensions except the dormer in Appeal B.

Conditions

34. The Council has not suggested any conditions and since the development is externally complete, I consider none are necessary.

35. In respect of Appeal B, the permission is subject to the plans submitted, so far as relevant to that part of the development permitted and a separate plans condition is not necessary. A time limit condition is necessary in the interests of certainty.

Conclusions

36. For the reasons given above I conclude that Appeal A should succeed in part only, and I will grant planning permission for the erection of a two-storey side extension, part two-storey and part single storey rear extension, at 106 Valley Drive, London NW9 9NS but otherwise I will uphold the notice and refuse to grant planning permission in respect of the extensions as erected, namely including the rear dormer window. The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of s180 of the Act.
37. In Appeal B I have found that the two-storey side extension, part two-storey and part single storey rear extension are acceptable, the rear dormer window is not. This element of the proposal is clearly severable both physically and functionally. I shall therefore issue a split decision. The appeal is therefore allowed in respect of the two-storey side extension, part two-storey and part single storey rear extension.

Felicity Thompson

INSPECTOR