

Appeal Decision

Site visit made on 30 November 2021

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 10th December 2021

Appeal Ref: APP/C1950/C/21/3271233

22 Selwyn Drive, Hatfield AL10 9NJ

- 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 Ramos against an enforcement notice issued by Welwyn Hatfield Borough Council.
 - The enforcement notice Ref: ENF/2017/0173 was issued on 3 March 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a two-storey rear extension.
 - The requirements of the notice are to:
 - i) Demolish and remove the two-storey rear extension as shown shaded blue on the plan attached to the notice and as shown by the photographs marked A attached to the notice. Or
 - ii) Modify the two-storey rear extension (shown shaded blue on the plan attached to the notice) to comply with the terms of the planning permission reference: 6/2019/2941/HOUSE dated 20 April 2020, including the plans attached to that planning permission.
 - iii) Remove from the Land all materials, debris, waste, plant and equipment associated with requirement (i) or (ii) above.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) (f) of the Town and Country Planning Act 1990 as amended. Since an appeal on ground (a) has been made, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Decision

1. 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.

Procedural Matter

2. Since the appeal was made, a revised National Planning Policy Framework (the Framework) came into force on 20 July 2021. The main parties were asked for any comments, and any received have been taken into account in the Decision.

Ground (a) and the deemed planning application

Main issues

3. The main issues in this appeal are the effect of the extension on:
 - the character and appearance of the host dwelling and the area; and
 - the living conditions of the neighbouring occupier at 24 Selwyn Drive (No 24) as regards outlook.

Reasons

Character and appearance

4. The appeal property is a semi-detached house within a residential area where dwellings are reasonably similar in scale, design and appearance. The pitched roof of the un-extended part of the building is of hipped design. The appeal development has created a two-storey flat-roofed extension to its rear.
5. The Council has approved an extension under reference 6/2019/2941/HOUSE dated 20 April 2020 (the approved scheme). According to the officer report, the approved scheme would have a step-in of approximately 1.95m from the boundary at first floor level and a hipped roof which would match the host dwelling in pitch and materials. All external walls of the dwelling would be rendered white.
6. The appellant says that the difference between what has been approved and what has been built is minimal and that the impact of this on the visual appearance of the property is nil.
7. I do not agree. The appeal development has a jarringly noticeable higher eaves height than the main dwelling which results in an awkward and contrived connection to the main roof. The colour of its brickwork is highly contrasted and inharmonious with that of the main building. Notwithstanding the appellant's comments on the visibility of the development from the street, the striking incongruity of its brickwork and eaves arrangement can be seen clearly from Selwyn Drive and has a deleterious effect on the appreciation of the host property within the streetscene and immediate locality.
8. The appellant suggests that I might grant planning permission for a scheme with a pitched roof over the whole extension as built. However, even were I minded that this could make the development acceptable, the appellant has not submitted plans for my consideration. In any case, the appeal process should not generally be used to evolve a scheme and without neighbour notification of the plans it would deprive those who should have been consulted the opportunity of such consultation. Therefore, I do not accept the suggestion.
9. The appellant says that the bricks used in the development are the same used for the host dwelling (LBC Brick Rustic Antique) and that the colour difference is due to the difference in age. He has suggested that the bricks might be stained to remedy this (or else, the wall might be rendered). However, even were it possible to secure such improvements to the appearance of the walls through a condition, it would not overcome the harm I have identified through the overall poor standard of design including the eaves and roof issue.

Living conditions, No 24

10. The main parties agree that the two-storey extension projects 3m beyond the rear wall of No 24 and is set-in from the shared boundary with No 24 by approximately 0.15m.
11. Notwithstanding that the extension lies outside of the 45-degree angle when measured from the windows of the rear habitable rooms of No 24, the bulked mass of the development taking into account all factors (including its height, depth and proximity) results in an unacceptably dominant and oppressive structure that significantly harms the outlook for occupiers of that property.

12. The approved scheme was acceptable as it remedied the harm by reducing the bulk at first floor level next to the shared boundary. While I acknowledge the appellant's point that the flat roof of the development, as opposed to the pitched roof of the approved scheme, takes away bulk from the extension it is not as effective as doing so as the significant inset at first-floor level of the approved scheme. Accordingly, the flat roof does not make the development acceptable in terms of the harm caused to the occupiers of No 24.
13. I acknowledge that there are no windows to the side of the extension overlooking No 24 and no loss of privacy to its occupiers. I also accept, based on the appellant's evidence, that the extension does not create unacceptable overshadowing or loss of daylight to that property. However, these considerations do not mitigate against the harm I have identified and do not change my decision.

Other matters

14. I have taken into account what has been said by the appellant about the health and educational needs of his son, and that the rear bedroom of the extension provides suitable space and facilities for him. However, no clear case has been made as to why the approved scheme cannot provide appropriate space and facilities. While I accept that the development provides additional space relative to the approved scheme, this benefit does not outweigh the harm caused, nor does that fact that the property is in a sustainable location with ample land.
15. I do not accept the appellant's point that it is a benefit of the unauthorised development that it creates work for local builders and tradesmen. It has already been built and further work for builders would result should I dismiss the appeal and refuse the deemed planning application.
16. The appellant says that the relevant policies of the Welwyn Hatfield District Plan (2005) (LP) are out-of-date and therefore little or no weight should be applied to them. However, it is well-established that a development plan should not be considered out-of-date simply because of its age. Rather it is a matter of the development's plan compliance with the Framework, and the appellant has not clearly identified any substantive conflicts or inconsistencies between the LP and the Framework. I therefore give the LP's policies full weight.
17. The emerging plan, the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, has been submitted to the Secretary of State for examination. As it is not clear the extents to which its policies are consistent with the Framework or to which any objections to its policies have been resolved, I give it very limited weight in this decision.

Conclusion on ground (a) and the deemed planning application

18. The appeal development causes significant harm to the character and appearance of the host dwelling and the area, and to the living conditions of the neighbouring occupier at 24 Selwyn Drive (No 24) as regards outlook. As such it is in conflict with policies D1 and D2 of the LP, as supported by the Council's Supplementary Design Guidance 2005, which together seek to ensure developments are of high-quality design and respect and relate to character and context. It is also in conflict with the design principles of the Framework.

19. The development does not comply with the development plan as a whole, and there are no other considerations which outweigh this finding. Accordingly, the appeal under ground (a) fails and I will not grant planning permission.

Ground (f)

20. For an appeal to succeed under this ground, I must be satisfied that the steps required by the notice are excessive in achieving its purpose.
21. The appellant asks that the works to be undertaken are restricted to those to comply with the approved scheme. However, this is precisely the route to compliance that step 2 of section 5 of the notice provides and therefore there is no substantive case from the appellant that the notice requirements are excessive.
22. Accordingly the appeal under ground (f) does not succeed.

Conclusion

23. 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.

Andrew Walker

INSPECTOR