



Appeal Decision

Site visit made on 15 March 2022

by M Madge DIPTP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2022

Appeal Ref: APP/T5150/C/21/3273434

29 Holt Road, Wembley HA0 3PY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Saqib Hussain against an enforcement notice issued by London Borough of Brent.
- The notice, numbered E/20/0516, was issued on 23 March 2021.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a front porch at the premises.
- The requirements of the notice are to:
 - STEP 1 Remove the unauthorised porch to the front of the premises.
 - STEP 2 Restore the original open porch on the premises so that it reflects the position before the unauthorised development took place.
 - STEP 3 Remove all debris, materials and other items from the premises which are associated with carrying out the compliance with Steps 1 and 2 of this notice.
- The period for compliance with the requirements is 4 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary Matter

1. The Brent Local Plan 2019-2041 was adopted in February 2022 ("the BLP"), after the enforcement notice was issued. The appellant and the Council have had an opportunity to comment on the effects of the BLP's adoption. The ground (a) appeal and the deemed application for planning permission shall be determined in accordance with the most up-to-date development plan.

Appeal on ground (b)

2. The appeal on this ground is that the matters alleged have not occurred. To succeed on this ground the appellant needs to show that, on the balance of probability, a front porch has not been erected at the premises.
3. The appellant confirms that a porch has been erected at the premises and I saw that to be the case. The matter alleged has occurred as a matter of fact.
4. For this reason, the appeal on ground (b) fails.

Appeal on ground (c)

5. The appeal on this ground is that, if the matters alleged have occurred, they do not constitute a breach of planning control. To succeed on this ground the

appellant needs to show that the porch is either not development or it has the benefit of planning permission. The relevant test is the balance of probability.

6. The appeal premises is a semi-detached 2-storey dwellinghouse. As originally constructed, the dwellinghouse had a recessed front door with partially open porch. Examples of this dwellinghouse design are common within the locality and many have enclosed their partially open porches. Enclosing the partially open porch would not extend the dwellinghouse as the partially open porch sits below the first-floor accommodation. The enclosure of the partially open porch changes the appearance of the dwellinghouse, but as the dwellinghouse retains its inherently domestic appearance, that change is not material. As enclosing the partially open porch does not materially affect the external appearance of the dwellinghouse it does not constitute development, as confirmed by S55(2)(a)(ii) of the Town and Country Planning Act 1990 as amended.
7. The appellant claims that the partially open porch at the appeal premises was enclosed in July 2002. Appendix 3, Image 1 of the Council's Appeal Statement shows that the partially open porch had been enclosed with white UPVC doors and windows by March 2018. The external door at the front of the dwellinghouse had therefore been relocated by March 2018, which is before works commenced on the front porch in approximately August 2020.
8. Class D, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended ("the GPDO") confirms that the erection or construction of a porch outside any external door of a dwellinghouse is permitted development, providing it complies with the specified limitations. The following limitations, set out in D.1 of the GPDO, are relevant to this case:
 - (b) the ground area (measured externally) of the structure would exceed 3 square metres; and*
 - (c) any part of the structure would be more than 3 metres above ground level; and*
9. The Council claims the combined floor area of the front porch and partially open porch is 4.1 sq.m. I have already concluded that the enclosure of the partially open porch did not constitute development and its floor area is not therefore relevant when considering D.1 (b). While the appellant claims the front porch does not of itself exceed 3 square metres, no plans, measurements or other evidence to justify this claim has been provided.
10. The Council further claim that the highest part of the front porch is 4.1 metres above ground level. The appellant confirms that the highest part of the porch is more than 3 metres above ground level. Even if I had found that the floor area of the front porch did not exceed 3 square metres, the front porch fails to comply with D.1(c). It does not therefore benefit from express planning permission granted by Article 3(1) of the GPDO as it exceeds the specified limitation. I am not aware of any other planning permission being granted for the front porch. The front porch is therefore development requiring planning permission and that planning permission has not been granted.
11. For this reason, the appeal on ground (c) fails.

Appeal on ground (a) and the deemed planning application

12. An appeal on this ground is that planning permission should be granted for the matters alleged, which is the erection of a front porch at the premises. The **main issue** is the effect of the development on the character and appearance of the appeal premises and the surrounding area.
13. The front porch has been erected with a dual pitched roof, the gradient of which matches that of the projecting gable. The height and width of the front porch is proportionate to the scale of the appeal premises. The porch is constructed in red brick and render and has been half timbered to replicate the design and appearance of the appeal premises. The matching materials, colour finish and design of the front porch deliver a high-quality development. Given the appeal premises juxtaposition to the adjacent highway network, the front porch is visually unobtrusive. All these factors combine to provide the highest architectural and urban design quality.
14. Design guidance in the Brent Residential Extensions and Alterations SPD2 (November 2018) ("SPD2") suggests that in '*most cases the porch should not project beyond or connect to a bay window or garage*'. The appeal premises has no bay window or garage, and while the porch projects forward of the front elevation of the dwellinghouse, that is to be expected by the nature of the development. The porch occupies the most appropriate position and is of a size, shape and height that compliments the design of the appeal premises.
15. For the reasons given above, the development causes no harm to the character and appearance of the appeal premises or the surrounding area. The development complies with policies DMP1 and BD1 of the BLP, which seek to deliver high quality development, amongst other things. Furthermore, the development does not conflict with design guidance found in SPD2, which also seeks to deliver high quality development, amongst other things.
16. The appeal on ground (a) succeeds, and I shall grant planning permission for the front porch. Given the success on ground (a), the appeal on ground (f) does not need to be considered.

Formal Decision

17. 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 front porch at 29 Holt Road, Wembley HA0 3PY, as shown on the plan attached to the notice.

M Madge

INSPECTOR