



Appeal Decision

Site visit made on 17 March 2022

by Rory MacLeod BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 May 2022

Appeal Ref: APP/F5540/W/21/3283114

60 Dawes Avenue, Isleworth, TW7 7JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Ms Nipun Dawes against the decision of London Borough of Hounslow.
- The application Ref 00337/60/P6, dated 21 May 2021, was refused by notice dated 19 July 2021.
- The application sought planning permission for sub-division of existing dwelling house into one 2-bedroom dwelling house and one 1-bedroom dwellinghouse without complying with conditions attached to planning permission Ref 00337/60/P4, dated 7 June 2000.
- The conditions in dispute are Nos 3 and 4 which state that:
 3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 (or any order re-enacting that order) no enlargement of the premises or any additional structures/buildings with curtilage of the site shall be carried out.
 4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 (or any order revoking and re-enacting that order with or without modification), no windows/dormers [other than those expressly authorised by this permission] shall be consulted.
- The reason given for both conditions is:

In order not to prejudice the amenities of the adjoining properties and in order that the Local Planning Authority is able to exercise control over future development of the site.

Decision

1. The appeal is allowed, and planning permission is granted for sub-division of existing dwelling house into one 2-bedroom dwelling house and one 1-bedroom dwellinghouse at 60 Dawes Avenue, Isleworth, TW7 7JS in accordance with the terms of the application, Ref 00337/60/P6, dated 21 May 2021, without complying with conditions 3 and 4 attached to planning permission Ref 00337/60/P4, dated 7 June 2000, subject to the following conditions:
 - 1) Notwithstanding the provisions of Schedule 2, Part 1 and Classes B and C to the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no roof alterations, windows or dormer windows shall be constructed.

- 2) The proposed development including the removal and replacement of the ground floor window to the rear elevation of the property with a high level fixed close window (as shown on plans dated 7 June 2000) shall be carried out strictly in accordance with the plans hereby approved by the Local Planning Authority, before the new unit is occupied.

Preliminary Matters

2. The appeal relates to a 2-storey house, originally constructed at the end of a terrace. A 2-storey extension added to the side of the house now forms a separate dwelling, 60a Dawes Avenue, with the former curtilage sub-divided between the two dwellings.
3. Subsequently, planning permission has been refused and an appeal dismissed for a hip to gable conversion and rear dormer extension at no.60¹. This is a recent decision referencing development plan policies that are still current and so is a material consideration in the current appeal.

Main Issues

4. The appellant is seeking the removal of 2 conditions to enable development to proceed under permitted development allowances. The main issues therefore are whether the conditions are necessary and reasonable in regard to safeguarding the character and appearance of the area and the living conditions of the occupiers on neighbouring dwellings.

Reasons

5. The combined effect of the disputed conditions is to preclude the construction under permitted development allowances of any extensions or enlargements of the dwelling, including at roof level, and any outbuildings within the remaining curtilage after subdivision of the original plot.
6. The scope for any ground floor additions beyond the existing dining area rear extension is severely constrained by the narrow shape of the adjacent curtilage. But even if a ground floor rear addition were to be envisaged there would be no material harm to the living conditions of adjoining occupiers. There is already a large single storey rear extension at 58 Dawes Avenue and no.60a has a rear conservatory. Any outbuilding erected under permitted development allowances within the retained garden to no.60 would be sufficiently separated from adjacent dwellings in Dawes Avenue and from the houses in Napier Road to the rear to not adversely impact on living conditions for these occupiers. As there are several rear extensions and outbuildings in the surrounding area, such additions under permitted development allowances would not adversely affect the character or appearance of the area.
7. However, the previous appeal decision at the site has confirmed that a hip to gable conversion and associated dormers would be detrimental to the character and appearance of the area. The terrace 50-60 Dawes Avenue is symmetrical in appearance. It is characterised by hipped roofs and mirrored by the terrace at nos. 57-67. The semi-detached houses in the immediate part of Dawes Avenue also present hipped roofs. The removal of the hipped roof to no.60 as part of permitted development roof alterations would unbalance the terrace's appearance and result in the loss of a positive unifying feature in the area.

¹ Appeal Ref: APP/F5540/W/21/3214623 and Application Ref 00337/60/P5

8. Such a change would be contrary to Policies CC1, CC2 and SC7 of the London Borough of Hounslow Local Plan (2015-2030) and the guidance contained in the Residential Extension Guidelines (adopted Supplementary Planning Document) which collectively seek to ensure a development's design is respectful of the character and appearance of an area. Nonetheless, as the Council concur, such roof alterations would not cause overlooking or other concerns for neighbouring occupiers.
9. Planning conditions must fulfil some planning purpose, be fairly and reasonably related to the development and not be unreasonable. Paragraph 56 of the National Planning Policy Framework states that planning conditions should be kept to a minimum and only imposed where they satisfy the tests for planning conditions listed in the paragraph.
10. Planning Practice Guidance (PPG) states, "*Conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015, so that it is clear exactly which rights have been limited or withdrawn. Area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity*".²
11. In my judgement the scope of restrictions in the disputed conditions is excessive. It is not necessary or reasonable to restrict ground floor extensions or outbuildings that could be added under permitted development allowances. But having regard to all relevant considerations, restrictions relating to roof alterations would satisfy the tests for planning conditions. Section 73(2)(a) of the Town and Country Planning Act 1990 enables planning permission to be granted subject to conditions differing from those subject to which the previous planning permission was granted.
12. I therefore propose to delete the two disputed conditions and substitute them with a single condition that specifies Classes B and C relating to roof alterations where permitted development allowances are to be removed. This would be in accordance with the guidance in PPG. I shall also refer to the General Permitted Development Order (2015) which has replaced the 1995 Order referenced in the conditions.
13. The appellant has referred to an allowed appeal in Brent in which a condition removing Class B permitted development allowances was deleted³. But the current appeal relates to a residential area of a different character and where different policies apply. The Brent decision does not provide justification for deletion of the disputed conditions without substitution.
14. The appellant points out that other end of terrace dwellings nearby, such as 50 Dawes Avenue at the other end of the terrace, retain permitted development allowances for roof extensions and alterations. Nevertheless, the previous appeal decision at no.60 is a material consideration and the complete removal of restrictions is not warranted.

² Paragraph: 017 Reference ID: 21a-017-20190723

³ Appeal Ref: APP/T5150/D/16/3165913 - 44 Wentworth Hill, Brent, Wembley HA9 9SG

Conclusion and Conditions

15. For the reasons set out above I conclude that the appeal should be allowed. I shall grant a new planning permission without the disputed conditions 3 and 4 but substituting a new condition relating to roof alterations to safeguard the character and appearance of the area.
16. Conditions attached to the original permission will not automatically be carried over to the new permission. The original development has been implemented so it is not necessary to impose the time limit condition. I have no information before me about the status of the other condition imposed on the original planning permission relating to a high level window. I shall therefore restate that condition.

Rory MacLeod

INSPECTOR