



Appeal Decision

Site visit made on 10 May 2022

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2022

Appeal Ref: APP/R5510/C/21/3282505

23 Cowley Crescent, Uxbridge, UB8 2HE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by E E Smani Ltd against an enforcement notice issued by the Council of the London Borough of Hillingdon.
 - The notice was issued on 29 July 2021.
 - The breach of planning control as alleged in the notice is the development of a hip to gable roof enlargement, [and a] rear dormer roof extension adjoined to a two storey rear extension.
 - The requirements of the notice are: Demolish and remove the hip to gable roof enlargement, the rear dormer roof extension and the adjoined two storey rear extension and reinstate the roof of the property to resemble as far as is reasonably practicable the external appearance of the property as existed prior to this development. Remove from the land the debris, items, fixtures and fittings, furniture, building materials, plant and machinery resulting from the works listed above. Or: Carry out remedial works to bring the development in (*sic*) complete accordance with the details shown on the submitted plans, numbers PL/VP/2994-02 (Received 26 March 2020) and PL/VP/2994-04 Rev A of planning permission ref: 11257/APP/2020/754. Remove from the land the debris, items, fixtures and fittings, furniture, building materials, plant and machinery resulting from the works listed above.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (g) 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.
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Decision

1. The appeal is allowed and the enforcement notice is quashed.

Application for costs

2. An application for costs was made by E E Smani Ltd against the Council of the London Borough of Hillingdon. This application is the subject of a separate Decision.

Ground (c) appeal

3. The ground of appeal is that the matters alleged in the enforcement notice do not constitute a breach of planning control. The appellant must show why their appeal on this ground should succeed, the applicable test of the evidence being on the balance of probability. As this ground is only concerned with matters of fact and law, planning merits considerations are not relevant.
4. The appeal site contains a semi-detached dwelling. The erection of a hip to gable roof extension and a rear dormer (the roof works) has involved building operations within the definition of development in s55(1) of the Act. Planning permission is required for the carrying out of any development of land, by

virtue of s57(1) of the Act. The definition of a breach of planning control in the Act at s171A(1) includes carrying out development without the required planning permission.

5. The GPDO¹ at Article 3, Schedule 2, Part 1, Class B, permits the enlargement of a dwelling by extending or altering its roof, subject to the limitations and conditions in paragraphs B.1 and B.2 being satisfied. Other alterations to the roof of a dwelling are permitted by Class C, subject to the limitations and conditions in paragraphs C.1 and C.2 being satisfied. The Council issued a Lawful Development Certificate (LDC) in respect of extensions to the dwelling, including a hip to gable roof extension and a rear dormer, materially similar in terms of their size and appearance to the roof works, in February 2020².
6. I understand that before the roof works were undertaken, the dwelling was extended to the rear at single and two storeys pursuant to the planning permission granted by the Council in May 2020³. Conditions attached to that permission did not restrict the permitted development rights available in respect of the generality of enlarging and altering the roof of the dwelling. Following the approach endorsed by the Courts⁴, the relevant consideration is therefore whether, from the start of the roof works until the time that they were substantially completed, the dwelling has otherwise been enlarged, improved or altered by more than what is allowed by the GPDO. Whether the roof works and the permitted extensions were undertaken as separate building operations is of limited importance in this regard.
7. The roof works and the permitted extensions are substantially complete. The Council did not advance evidence to explain why the roof works were not permitted by the GPDO. The appellant demonstrated that the volume of the roof works, combined with that of the roof of the permitted extensions, has not increased the volume of the original roof of the dwelling by more than the 50 m³ limit in Class B at paragraph B.1(d)(ii). There is no sound reason to doubt the appellant's evidence. The roof works also satisfy the other relevant limitations in paragraph B.1, the conditions at paragraph B.2(a) and (c) and those in Class C.
8. Therefore, on the balance of probability the appellant has shown that the roof works were permitted by the GPDO. It follows that the matters alleged in the notice do not constitute a breach of planning control.

Conclusion

9. For the reasons given above I conclude that the appeal should succeed on ground (c). Accordingly, the enforcement notice will be quashed. In these circumstances the appeal under grounds (a) and (g) set out in section 174(2) to the 1990 Act as amended and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended does not need to be considered.

Stephen Hawkins

INSPECTOR

¹ Town Country Planning (General Permitted Development) (England) Order 2015 (as amended).

² Council Ref: 11257/APP/2019/4025.

³ Council Ref: 11257/APP/2020/754.

⁴ *R (aoa Watts) v SSETR* [2002] EWHC 993 (Admin).