



Appeal Decision

Site visit made on 9 August 2022

by D Boffin BSc (Hons), DipTP, MRTPI, Dip Bldg Cons (RICS), IHBC

an Inspector appointed by the Secretary of State

Decision date: 6th September 2022

Appeal Ref: APP/M5450/C/21/3279000

Land at 59 Beverley Gardens, Stanmore HA7 2AP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the 1990 Act). The appeal is made by Mr Morgan Anamoah against an enforcement notice issued by London Borough of Harrow.
- The notice was issued on 9 June 2021.
- The breach of planning control as alleged in the notice is:
Without planning permission the unauthorised construction of a single and two storey side to rear extension; single storey rear extension, alterations to roof to form end gable and rear dormer and front porch ("Unauthorised Development").
- The requirements of the notice are:
 - 1) Demolish the Unauthorised Development
 - 2) Make good any damage caused to the building as a result of the above step and ensure that all materials used shall match those used in the existing building
 - 3) Remove from the Land all materials and debris arising from compliance with the aforementioned requirements of the notice.
- The period for compliance with the requirements is: Six (6) calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the 1990 Act. 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 1990 Act.

Summary Decision: The appeal succeeds in part and the enforcement notice is upheld as varied in the terms set out below in the Formal Decision.

Applications for costs

1. An application for costs was made by Mr Morgan Anamoah against the London Borough of Harrow. This application is the subject of a separate decision.

Preliminary Matters and Background

2. The appellant states within his evidence that significant elements of the extensions as they exist on the site currently are either permitted development, or benefit from the necessary planning consents. Nevertheless, there is no evidence before me that the development that is the subject of the enforcement notice does not constitute a breach of planning control. Moreover, there is no ground (c) appeal before me, and I will consider the matters raised within the grounds of appeal below.
3. In 2014 a planning application¹ (the 2014 app) for '*single storey front to side extension; single and two storey side to rear extension; rear dormer; installation of rooflights in front and side roofslopes*' was refused and an appeal² against that decision was dismissed later that year. In 2016 a number of applications, relating to extensions to the appeal property, were submitted

¹ Ref No: P/2464/13

² Ref No: APP/M5450/D/14/2218067

to the Council these included a Certificate of Lawful Development³ (the LDC). The LDC related to *'proposed alterations to roof to form end gable and rear dormer; installation of three rooflights in front roofslope and new window in side'* and it was granted. Planning permission⁴ (the 2016 permission) for a single storey extension was also granted that year. In 2017 planning permission⁵ (the 2017 permission) was granted for *'single and two storey side to rear and front porch'*. In 2020 a retrospective planning application⁶ for *'single and two storey side to rear extension; single storey rear extension; alterations to roof to form end gable and rear dormer; front porch; external alterations'* was refused.

4. Both parties were given the chance to comment on whether they consider that the 2016 and 2017 permissions were begun and if they considered that the 2017 permission was begun was it begun in breach of a condition precedent in respect of condition 3 of that permission. In addition, did they consider that either or both of the planning permission/s is/are still extant. The appellant's response was that both of the permissions were begun and therefore are extant. The Council stated that while it is noted that there is a minor section of the foundation that overlaps either permission, this on its own should not be considered to be implementation of a previous significantly smaller permission. It also considers that condition 3 goes to the heart of the matter as it relates to the front porch. It does not consider that either planning permission is still extant as a result.
5. Given that part of the footprint of the development as constructed appears to overlap that of the planning permissions I consider that there is an element of development common to both the 2016 and the 2017 permissions and the enforcement notice. The development as constructed has a larger ground floor footprint than that cumulatively approved by the 2016 and 2017 permissions.
6. However, large parts of the flank wall on the boundary with 61 Beverley Gardens (No 61), the front wall of the ground floor side extension and some of the porch walls would be in a similar position to that of the walls of the development as constructed. Based on the evidence before me, it appears that the digging of a trench to contain those parts of the foundations of the development would have been a 'material operation' as defined within section 56 of the 1990 Act in respect of the 2016 and 2017 permissions. As such, it would appear that the development permitted by those planning permissions was begun within the time limits set out in those permissions.
7. Nonetheless, condition 3 attached to the 2017 permission required details to be submitted to and approved by the Council prior to the commencement of the development. Condition 3 relates to the front porch and it states *'notwithstanding the details shown on the approved drawing MA-2016-SIDE-02 Rev 03, the development hereby permitted shall not commence until there has been submitted to, and approved in writing by, the local planning authority, revised drawings showing the following: The reduction in width of the proposed front porch so that there is a satisfactory gap between the flank elevation of the porch and the existing front bay window.'* It therefore expressly prohibits any development taking place before that requirement has been met.

³ Ref No: P/1337/16

⁴ Ref No: P/1336/16

⁵ Ref No: P/0658/17

⁶ Ref No: P/1745/20

8. The reason for the condition is stated to be '*to safeguard the character and appearance of the area...*'. The Council's Delegated Application Report for the 2017 permission states that the condition has been added seeking a reduction in width of the proposed porch to provide a satisfactory gap between its flank elevation and the bay window. Ensuring that the detail of the porch width is acceptable is not a measure that I would deem affects the fundamentals of how the 2017 permission needed to be undertaken, nor is it something that needs to be agreed prior to those works taking place as it is a minor part of that scheme. Furthermore, there is no reason to believe that a satisfactory porch width could not have been provided. In the circumstances of this case, the width of the porch is not a matter that goes to the heart of the 2017 permission. As such, condition 3 is not a true condition precedent.
9. I acknowledge, that it is reasonable to consider that it is possible to deviate from the permitted works in a manner that later becomes an enforcement issue. Nevertheless this does not retrospectively alter the fact that the 2016 and 2017 permissions can be treated as being begun in relation to section 56 of the 1990 Act. Therefore, I consider that the 2016 and 2017 permissions are still extant. Furthermore, they indicate that the Council considered at that time the development proposed within those permissions would not result in harm to the character and appearance of the area or the living conditions of the neighbouring occupiers. I have dealt with the appeal on this basis.
10. The LDC was granted under section 192(1)(b) of the 1990 Act and it certifies that on 21 March 2016 the '*alterations to roof to form end gable and rear dormer; installation of three rooflights in front roofslope and new window in side*' would be lawful if begun on that date. This was on the basis that the development would be 'permitted development' under The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO). The LDC does not constitute a grant of planning permission.
11. The Council within its Delegated Enforcement Report have stated that '*all three permission were merged and built-in one operation with further additions*'. It appears that the 3 'permission' it is referring to in that report are the 2016 and 2017 permissions together with the LDC. That report also states that the work on the development commenced after 2 May 2017. There is no alternative evidence before me to indicate that the LDC was substantially completed separately and prior to the remainder of the development as constructed.

The ground (a) appeal and deemed planning application

Main Issues

12. The main issues in this case are:

- The effect of the development on the character and appearance of the host property and the surrounding area;
- The effect of the development on the living conditions of the adjacent occupiers with regard to visual impact.

Reasons

Character and appearance

13. The appeal property comprises one of a pair of semi-detached houses located within a residential area. To the rear of the dwelling there are allotment gardens. This part of Beverley Gardens is characterised by a variety of style of detached and semi-detached dwellings. Moreover, a number of the various

designs of dwellings appear to have been designed with 2-storey side additions adjacent to their one rear corner. These additions are subordinate to the main part of the property due to the set back from the front elevation and the appreciably lower ridge height to their roofs in comparison to that of the main roofs.

14. Despite that variety of design those dwellings largely have hipped roofs, bay/bow windows on their front elevations and are of a similar scale. In combination, with the application of a limited palette of materials this gives the immediate surrounding area a harmonious character and appearance. I acknowledge that some of the dwellings have been extended to the side with single/2-storey extensions and others have been extended at roof level with rear dormers and hip-to-gable extensions. However, those extensions have not significantly affected that harmonious character and appearance.
15. In this case, the dwelling had a pre-existing 2-storey side addition and the width of its plot is relatively generous in comparison to those nearby. That addition was adjacent to a rear corner of main part of the house and it extended beyond its rear elevation. I observed on site that the addition has been replaced by single and 2-storey extensions to the side and rear of the dwelling. Furthermore, a porch to the front, a dormer to the rear roof slope and a hip-to gable extension to the roof have also been constructed.
16. As stated previously, the 2014 app was refused and the appeal against that refusal was dismissed. The submitted drawings for it show a single and 2-storey extension to the side, single storey extensions to the front and rear and a hip-to-gable extension to the roof and a rear dormer. The width of the 2-storey side extension proposed at that time appears to have been slightly wider than that which has been constructed. Furthermore, that side extension at first floor level would have projected further beyond the rear elevation of the dwelling and the single storey front extensions would have wrapped around the front corner of the building. However, the hip to gable and dormer extensions to the roof would have been similar to that constructed.
17. The Inspector in that appeal stated that *'the roof of the side extension and the main part of the house would be joined by a vertical gable element that would appear awkward and contrived and out of character with the existing hipped roof form.'* He goes on to state that *'the hip to gable extension and the increased height of the roof to the side extension would both add considerable high level bulk. This would unbalance No 59 and No 61 as a pair in the street scene'*.
18. The approved drawings for the 2017 permission indicate that the proposed extensions permitted included a single/2-storey side to rear extension and a porch to the front. The architectural detailing, materials and roof forms of the 2017 permission are very similar to those of the single/2-storey side to rear extension and porch as constructed. Nonetheless, the width of the permitted side extension was 3.3 metres whereas that constructed is 4 metres in width. Moreover, the front porch is shown on those drawing to be separate from the bay window. In addition, as stated previously, condition 3 of the 2017 permission seeks to reduce the width of the porch from that shown on the approved plans.
19. The first-floor side extension as constructed is the same depth, from the rear elevation of the dwelling, as that permitted by the 2017 permission.

Nevertheless, the first-floor extension as constructed wraps around the rear corner of the building across part of the rear elevation of the dwelling. The rear elevation of the extension, at first floor level, as constructed is therefore substantially wider than that approved in 2017.

20. The 2016 permission related to a single storey rear extension across the whole of the rear of the main part of the dwelling. It was shown on the drawings to have a depth of 4 metres from the rear elevation of the house. The single storey part of the rear extension approved through the 2017 permission appears to have a similar depth to the rear of the house as the 2016 permission. However, the single storey extension to the rear as constructed has a depth of 5.95 metres, beyond the main rear elevation, adjacent to the boundary with 57 Beverley Gardens (No 57) and a depth of 4.6 metres adjacent to the boundary with No 61.
21. The additional width of the 2-storey side extension means that it is more than half the width of the main part of the property. However, there remains an appreciable gap to the boundary with No 57, its materials and architectural detailing reflect that of the 2017 permission, the first floor is set back from the front elevation and its ridge height is lower than that of the main roof. As such, when considered on its own that additional width has limited impact on the character and appearance of the host building or the surrounding area when compared to the 2017 permission.
22. Nevertheless, the 2-storey side extension is seen from Beverley Gardens together with the hip to gable extension and part of the dormer. The 2017 permission did not include the hip to gable extension and rear dormer. The resultant roof form of the 2-storey side extension's hipped roof meeting the gable of the main roof appears awkward and contrived as highlighted by the previous Inspector. Moreover, the additional scale and mass at roof level of the hip to gable extension, dormer and the 2-storey side extension cumulatively results in an unduly prominent extension. It unbalances the pair of semi-detached houses and leads to an incongruous, harmful form of development which diminishes unacceptably the character and appearance of the host building with consequent harm to the character and appearance of the surrounding area.
23. At the rear the wrap-around nature of the first-floor rear extension and its projection across the rear elevation of the house mean that the additional bulk of that wrap-around dominates that rear elevation. Moreover, the additional part of the first-floor extension as constructed, as compared to the 2017 permission, has a monopitch roof which has resulted in a contrived junction at roof level with the dormer on the rear roof slope. That dormer extends across the majority of the extended rear roof slope. The cumulative effect of the additional first floor and roof extensions, when compared to the 2017 permission, results in a disproportionate scale of development. This is because together they mask a large part of the original building form due to their bulk and scale when viewed from the rear. The rear elevation of the building is not seen from Beverley Gardens but can be viewed from neighbouring gardens and the allotments.
24. The single storey extension across the rear of the dwelling is flat roofed and it has an appreciably greater footprint to that approved by the 2016 and 2017 permissions in combination. However, this element of the extensions, on its

own, has little impact on the character and appearance of the area or the host building when compared to that granted by those permissions. Nevertheless, it is linked to the side and first floor rear extensions and is therefore not severable from the remainder of the development.

25. The roof of the porch abuts onto the bay window and there is no visual separation between the porch and bay window. As a result the contribution that the bay window makes, as a characteristic architectural feature, to the character and appearance of the host building has been diminished. The porch therefore harms the character and appearance of the host building and to a limited extent the surrounding area.
26. The appellant has stated that significant elements of the extensions as they exist on the site currently are either permitted development, or benefit from the necessary planning consents. I have found that the 2016 and 2017 permissions are extant, and given the resources and cost involved, it is more likely than not that the appellant would modify the development to accord with those permissions if the enforcement notice is upheld. As such, there is a realistic prospect that those permissions would be completed as permitted. Nevertheless, for the reasons given above the development permitted by the 2017 permission would result in less harm to the character and appearance of the host dwelling and the surrounding area than the development as constructed. Moreover, the development permitted by the 2016 permission would not result in greater harm to the character and appearance of the host building and the area than that constructed. Therefore, they have little weight as fallback positions. Nevertheless, as stated above, the 2016 and 2017 permissions indicate that the Council considered, at that time, the extensions as allowed would not result in harm to the character and appearance of the host building or the area.
27. The LDC was submitted to and determined by the Council separately to the 2016 and 2017 permissions. The existing plans for each application showed the dwelling in its pre-existing form as none of the proposals had been commenced when they were determined. There is no dispute that if the works shown within the LDC had been substantially completed prior to the other extensions being substantially completed those works would have been permitted development through Schedule 2, Part 1, Class B (Class B) of the GPDO. However, as stated previously there is no evidence before me to indicate that the LDC was substantially completed prior to the remainder of the development as constructed.
28. I have found that it is more likely than not that the appellant would modify the existing development to accord with the 2016 and 2017 permissions if the enforcement notice is upheld. Therefore, it is also more likely than not that the hip to gable extension and rear dormer would only be rebuilt after those modifications were complete. There is little specific evidence before me to indicate that the LDC and the 2016 and 2017 permissions could all be implemented without the need for further planning permission. This is because the GPDO states that '*development is not permitted by Class B if... (d) the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than (ii) 50 cubic metres in any other case*' and at B.3. it states '*for the purposes of Class B, "resulting roof space" means the roof space as enlarged, taking into account any enlargement to the original roof space, whether permitted by this Class or not.*' As such, any enlarged roof

space within the 2016 and 2017 permissions in addition to that shown in the LDC would need to be no more than 50 cubic metres in cubic content. Consequently, there is little evidence before me to indicate that there is a realistic prospect of the hip to gable and rear dormer being rebuilt as permitted development if the appeal is dismissed. The LDC therefore has little weight as a fallback position.

29. The appellant has also stated that when he *'started construction on the rear extension, new permitted development allowing up to a 6m deep rear extension had been enacted (subject to no neighbouring objection).'* The appellant spoke to the occupiers of No 61 and agreed to align the rear extension with No 61's extension. He also aligned it with the rear extension to No 57. Through Schedule 2, Part 1, Class A (Class A) of the GPDO development is not permitted if *'the enlarged part of the dwellinghouse would have a single storey and- (i) extend beyond the rear wall of the original dwellinghouse by more than 6 metres in the case of any other dwellinghouse'*. However, a single storey extension of that size is subject to a neighbour consultation scheme to assess the impact of the proposed development on the amenity of their property. The requirements of the neighbour consultation scheme are set out in paragraph A.4 of Class A. There is no evidence to indicate that those requirements were met in this case.
30. Moreover, the single storey rear extension as constructed extends beyond a wall forming a side elevation of the original dwellinghouse and has a width greater than half the width of the original dwellinghouse as it extends across the whole of the rear elevations of the house and the side extension. As a result, there is not a realistic prospect that the parts of the single storey rear extension that do not accord with the 2016 and 2017 permissions could be rebuilt as permitted development through Class A if this appeal is dismissed. Therefore, they have little weight as a fallback position.
31. The appellant also refers to the fact that other extensions on similar types of houses have been built in the surrounding area. The full details of them are not before me and such proposals tend to be determined upon individual site circumstances. However, I noted at my site visit that, in the immediate vicinity of the site, where dwellings have been extended to the side by 2-storeys they have not also had a hip to roof extension and dormer and vice-versa. Furthermore, nothing that I saw persuaded me that the development subject of this appeal is acceptable in this location.
32. Whilst reasonably localised in its extent, the effect of the development as constructed diminishes unacceptably the character and appearance of the host building with consequent harm to the character and appearance of the surrounding area. The development is therefore contrary to Policy D3 of the London Plan (2021) (LP), Policy CS1.B of the Harrow Core Strategy (2012)(CS) and Policy DM1 of the Development Management Policies (2013)(DMP) which, amongst other things, state that development proposals must respond to the existing character of a place; proposals that would harm the character of suburban areas will be resisted; extensions should respect their host building; all development must achieve a high standard of design and the assessment of the design will have regard to a number of factors including the massing, bulk, scale and height of proposed buildings in relation to the location and the context provided by neighbouring buildings. Those policies are consistent with paragraph 130 of the National Planning Policy Framework (the Framework)

which states, amongst other things, that planning decisions should ensure that developments are sympathetic to local character including the surrounding built environment. As such, with regard to paragraph 219 of the Framework the conflict arising in these respects is given full weight.

Living conditions

33. The Council's Delegated Application Report⁷ (the 2020 report) states that there would not be harm to the living conditions of the occupiers of No 57 with regard to loss of light, overlooking or overshadowing impact. I have no reason to disagree with those findings. It also states that there is likely to be a loss of light to a window in the rear elevation of No 61 but that this is partly due to No 61's own rear extension. Furthermore, the 2016 permission was granted for a single storey extension adjoining the boundary with No 61. Moreover, there is no distinction in that report between sunlight and daylight. There is no technical evidence before me to indicate that the increase in depth of the extension as built has a materially greater impact on the daylight and/or sunlight that is received through No 61's rear window when compared to the 2016 permission. As such, it is more likely than not that the living conditions of the occupiers of No 61 have not been materially affected with regards to sunlight and daylight.
34. Nevertheless, the Council maintain that overall and cumulatively the extensions as constructed have a detrimental effect on visual impact in relation to the occupiers of No 57 and No 61. CS Policy DM1 states, amongst other things, that proposals that would be detrimental to the amenity of neighbouring occupiers will be resisted and the assessment of privacy and amenity considerations will have regard to the relationship between buildings and site boundaries and the visual impact of development when viewed from within buildings and outdoor spaces. It also states '*applying the Council's 45 degree code where relevant*'. The 2020 report indicates that the 2-storey element of the extensions would not interrupt a 45-degree splay drawn on plan from the nearest 2-storey rear corner of neighbouring properties No 57 and No 61.
35. When viewed from within No 57 and No 61 the extensions as constructed are highly likely to be experienced as no more overbearing than would be experienced by those occupiers with regard to the development granted by the 2016 and 2017 permissions. This is because the 2-storey element of the extension extends a similar depth from the rear elevation of the appeal dwelling as the 2017 permission. Furthermore, even though it is closer to the boundaries with both No 57 and No 61 the 45-degree splay is not broken by it.
36. I have found that the cumulative effect of the additional first floor and roof extensions, when compared to the 2017 permission, results in a disproportionate scale of development as a result of them masking a large part of the original building form due to their bulk and scale when viewed from the rear. However, for similar reasons to inside the buildings, when viewed from the rear gardens of the neighbouring properties the visual impact of the extensions as constructed is not experienced as significantly more overbearing than would be experienced by those occupiers with regard to that granted by the 2016 and 2017 permissions. Moreover, the wrap-around part of the 2-storey extension is close to the centre of the rear elevation of the appeal dwelling and is therefore some distance from the boundaries with the

⁷ Ref No: P/1745/20

neighbouring dwellings. The rear dormer is set within the roof slope and it is also some distance from those gardens.

37. Consequently, the development as constructed does not have a detrimental effect on the living conditions of the occupiers of No 57 and No 61 with regard to visual impact. It therefore complies with CS Policy DM1 and it would also comply with LP Policy D3 which states, amongst other things, that development proposals should deliver appropriate outlook and amenity.

Other Matters

38. I acknowledge the appellant's need to provide additional accommodation for a disabled family member and carer, but there is no evidence before me to indicate that the extensions as granted consent through the 2016 and 2017 permissions would not be capable of providing that accommodation. As such, this matter does not override the harm to the character and appearance of the host building and the surrounding area that I have identified above.

Conclusion on ground (a) and the deemed planning application

39. I have found that the development conflicts with LP Policy D3, CS Policy CS1.B and DMP Policy DM1. Consequently, it is contrary to the development plan when read as a whole. In this case, there are no material considerations to indicate that the appeal should be determined other than in accordance with the development plan. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal on ground (a) and the application for deemed planning permission should not succeed.

The ground (f) appeal

40. This ground of appeal is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. Section 173(4) of the 1990 Act sets out the purposes which an enforcement notice may seek to achieve. They are either (a) remedying of the breach of planning control or (b) remedying any injury to amenity which has been caused by the breach.
41. The notice does not specify which of the two purposes it seeks to achieve. Nonetheless, in requiring the demolition of all the unauthorised development it is evident that the Council seeks to remedy the breach. The Courts have held that if there is an obvious alternative to total demolition which would overcome planning difficulties at less cost and disruption, then I should consider it.
42. The appellant's case in relation to ground (f) is predicated on the same basis as his case in relation to the fallback positions cited above. That is, he considers that significant elements of the extensions as they exist on the site at the moment are either permitted development, or benefit from the necessary planning consents, or both. Therefore, he considers that it is wholly unreasonable and completely unsubstantiated to require the removal of all the extension works. I have found that there is not a realistic prospect that the parts of the single storey rear extension that do not accord with the 2016 and 2017 permissions could be rebuilt as permitted development through Class A of the GPDO if this appeal is dismissed. Moreover, I have also found that there is little evidence before me to indicate that there is a realistic prospect of the hip

to gable and rear dormer being rebuilt as permitted development if the appeal is dismissed. Nonetheless, I have found that the 2016 and 2017 permissions are extant. Given that the footprint of the development as constructed appears to overlap that of the 2016 and 2017 permissions I consider that there is an element of development common to both the permissions and the enforcement notice.

43. Where there is an extant planning permission the breach of planning control could also be resolved by the development being modified to comply with the terms and conditions of those planning permissions. This alternative would overcome the harm I have identified in the ground (a) appeal and the Council's concerns. There would also be less cost and disruption than total demolition, as the appellant would not have to remove/rebuild the whole of the extensions again just to implement the extant schemes. In light of the extant 2016 and 2017 permissions which the Council granted and would have been subject to public consultation, I consider that complete demolition of the development is therefore excessive and unnecessary.
44. Both parties were given the chance to comment on whether the requirements could be varied without injustice to them. The appellant stated there would be injustice to him as he considers that the development should be allowed through ground (a). However, I have found that the ground (a) appeal and deemed planning application should not succeed. As such, under section 176(b) of the 1990 Act, I will vary the notice to require either the demolition of the unauthorised development, or that the development shall be modified to comply with the terms and conditions of the 2016 and 2017 permissions. The appellant therefore would have the choice of which course of action to take. Consequently, I consider that I can carry out the variations without injustice to the parties. The appeal on ground (f) therefore succeeds to this extent.

The ground (g) appeal

45. Ground (g) is that the period specified for compliance with the notice falls short of what is reasonable. The notice states 6 calendar months for compliance and the appellant has not stated an alternative time period that he considers is required. His case is predicated on the same basis as his ground (f) appeal above.
46. I note that even if the appellant chooses to undertake the works to modify the development in accordance with the 2016 and 2017 permissions that those remedial works would be extensive. However, no evidence has been provided of the difficulties he may have in completing the works. Moreover, there is a need for expediency in remedying the harm caused to the character and appearance of the host building and surrounding area.
47. In the circumstances, I consider that the compliance period set out in the notice is reasonable and proportionate. Therefore, the appeal on ground (g) fails.

Overall Conclusion

48. For the reasons given above, I conclude that the ground (a) and (g) appeals should not succeed and that the requirements of the notice are excessive to remedy the breach of planning control. I shall vary the enforcement notice prior to upholding it. The appeal on ground(f) succeeds to that extent. I shall

refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

Formal Decision

49. It is directed that the enforcement notice is varied by:

- Substituting all the wording of the requirements with the following wording:
 - 1) **Either** (a) Demolish the Unauthorised Development **Or** (b) Modify the dwellinghouse to comply with the terms of the planning permissions (ref: P/1336/16 and P/0658/17) dated 21 March 2016 and 9 February 2017, including the conditions subject to which those permissions were granted.
 - 2) Make good any damage caused to the building as a result of the above step and ensure that all materials used shall match those used in the existing building.
 - 3) Remove from the Land all materials and debris arising from compliance with the aforementioned requirements of the notice.

50. Subject to the variations, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

D Boffin

INSPECTOR

