



Appeal Decision

Site visit made on 25 November 2022

By A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI
an Inspector appointed by the Secretary of State

Decision date: 10 January 2023

Appeal Ref: APP/M5450/D/22/3306774
14 Anglesmede Crescent PINNER HA5 5SP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by The Market Design Build against the decision of The London Borough of Harrow.
 - The application Ref: P/2324/22 dated 20 June 2022, was refused by notice dated 12 August 2022.
 - The development proposed is single storey front extension incorporating porch; single and two storey side to rear extension; single storey rear extension; Alterations to roof to form end gable rear dormer with juliet balcony; three rooflights in front roofslope; raised patio; external alterations (retrospective).
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Decision

The appeal is allowed and planning permission is granted for single storey front extension incorporating porch; single and two storey side to rear extension; single storey rear extension; alterations to roof to form end gable rear dormer with juliette balcony; three rooflights in front roofslope; raised patio; external alterations at 14 Anglesmede Crescent PINNER HA5 5SP in accordance with the terms of the application Ref:P/2324/22 dated 20 June 2022 and the plans submitted with it subject to the following condition:1) The works hereby approved are those appearing on the following drawings: A101-A201; A102-A202; A103-A203; A104-A204; A105-A205.

Preliminary Matter

1. The parties refer to a certificate of lawfulness (COL) issued by the Council¹ and a planning permission (2018PP)² which precede the subject of this appeal. Extraordinarily, the drawings listed as forming part of the COL and the 2018PP have identification numbers identical to those of the refused application. In the light of this it is necessary to identify what is hereby approved as the versions of the numbered drawings supplied with the application P/2324/22 dated 20 June 2022 and no other.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the host dwelling having regard to the preceding determinations of the Council.

¹ P/5682/18 dated 19 February 2019

² P/4662/18 dated 14 December 2018

Reasons:

3. The matter to be determined is³ a retrospective application seemingly⁴ pursuant to an enforcement investigation. The appellant explains that what has been built is the result of seeking to implement roof alterations addressed by a certificate of lawfulness⁵ in combination with a permitted two-storey side extension and single storey front extension which, as approved, incorporated a hipped roof form extending from the main roof of the dwelling⁶. The COL related to a rear dormer with a hip to gable roof extension which has, as implemented, curtailed the opportunity to complete the hipped roof form in the 2018PP by the introduction of a gable.
4. The matter to be determined has a description of development which amalgamates those appearing on the COL and the 2018PP, consequently, reading these documents on their face, it appears that the Council did previously approve (or confirm lawfulness of) development which accords with the description given in the appealed matter. This is the appropriate starting point.
5. The appellant refers to written advice as to the sequencing of these works given by the LPA prior to the commencement works which, it is contended, the appellant followed. On 28 June 2019 the Council responded to an enquiry as to the implementation of both the COL and the 2018PP. This states in clear terms that *'they can be both built lawfully (providing) the (COL) is completed before the (PP2018) is completed.'* In contrast, the Council's position in relation to the appealed matter is that *'both these applications (sic) have been implemented on site'* going on to reason: *'Therefore the development has not been implemented in accordance with planning permission P4662/18'*; presumably by reference to condition 2 of that permission and its versions of the named drawings. From my observations, the works permitted by the 2018PP have been implemented and are all-but-complete notwithstanding the inconsistency in the roof form brought about by the prior implementation of the works identified in the COL.
6. By reference to other decisions including appeals, the Council summarise their concerns as arising from the conjunction of the side extension with the dormer and hip to gable roof extension. They allege no harm to neighbouring amenity, but conclude that the development *'results in poorly designed extension that is harmful to the pattern of development'*. From my observations of what is found on site having regard to the surrounding development pattern and a wide range of alterations and extensions in the locality, harm arising from the identified inconsistency with the approved drawings should be given little weight.
7. The National Planning Policy Framework⁷ states that enforcement action is discretionary, and that local planning authorities should act proportionately in responding to suspected breaches of planning control. These are important qualifications to the powers provided. In this case the appellant plainly wished to avoid such a breach and sought advice from the Council in good faith which it is contended he followed. That advice was clear and without equivocation. It

³ notwithstanding the wording of refusal reason 1

⁴ The Council have not offered any response to the appellant grounds

⁵ P/5682/18

⁶ P/4662/18

⁷ NPPF #59

does not seem reasonable or proportionate that the Council should deal with the consequence of acting on that advice as if it had not been given, irrespective of opinions as to accuracy. To proceed on that basis, noting the uncertainty of the position the appellant found himself, undermines public confidence in the planning system.

8. As I have indicated, harm to the character and appearance of the host dwelling and any consequential effect upon the area is limited and should attract very little weight. For that reason I find no conflict with Policy DM1 of the Harrow Development Management Local Plans Policies (2013) and Supplementary Planning Document: Residential Design Guide (2010). I also find, having regard to the circumstances outlined, that granting permission would accord with the objectives of national policy for a proportionate approach to enforcement.
9. On that basis, taking all matters raised into account, the appeal succeeds. As the works have been carried out, no conditions are necessary other than a 'plans' condition in the interests of certainty.

Andrew Boughton

INSPECTOR