



Appeal Decision

Site visit made on 7 February 2023

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17TH FEBRUARY 2023

Appeal Ref: APP/R5510/C/21/3283930

11 Bushey Road, Hayes UB3 4AS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Bhupinder Singh against an enforcement notice issued by the Council of the London Borough of Hillingdon.
 - The notice was issued on 20 August 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the development of an additional rear canopy extension.
 - The requirements of the notice are: (i) Demolish and remove the unauthorised rear canopy extension. (ii) Remove from the land all debris, waste, building materials, plant, equipment and machinery resulting from the works carried out in compliance with (i).
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) 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. It is directed that the enforcement notice be varied by in paragraph 5 substituting 'one month' with 'three months' as the period for compliance. Subject to this variation 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 as amended.

Preliminary Matter

2. This appeal is solely concerned with the development alleged in the enforcement notice, as that defines the scope of the deemed planning application arising from the ground (a) appeal. Matters concerning other development at the appeal property are not before me.

Ground (a) appeal

Main Issues

3. The main issues in this ground of appeal are:
 - The effect of the additional rear canopy extension on the living conditions of occupiers of adjoining residential property, having regard to outlook and natural light.
 - The effect on the character and appearance of the dwelling and its surroundings.

Reasons

Living conditions

4. The property contains a two storey mid-terrace dwelling. The dwelling occupies a rectilinear plot and has a back garden of generous size. A single storey extension protrudes about 3.5 m from the original rear elevation. This extension was constructed pursuant to planning permission granted in 2015¹. A modest outbuilding is situated adjacent to the northern property boundary, with a more substantial outbuilding located towards the end of the back garden.
5. The rear canopy extension largely consists of a glazed monopitch roof set within a metal frame, with a dark coloured external finish. The canopy is supported by metal posts with a natural finish, similar in colour to the frame. The canopy protrudes around 4 m beyond the permitted extension, covering the smaller outbuilding. It protrudes a similar distance beyond the single storey rear extension on the neighbouring property to the south, 9 Bushey Road (No 9). 13 Bushey Road (No 13), the neighbouring property to the north, has not been extended at the rear. As a result, when taken together with the permitted extension, the canopy protrudes around 7.5 m beyond the rear elevation of No 13. Having a width similar to that of the properties, the canopy is adjacent to the boundaries with Nos 9 and 13. At an overall height upwards of around 2.5 m, the canopy is considerably taller than the fencing adjacent to the boundary with neighbouring property, as well as being taller than the smaller outbuilding.
6. The canopy is therefore an additional building of substantial overall depth and height in proximity to rear-facing ground floor windows and parts of the back gardens at Nos 9 and 13. The overall dimensions and location of the canopy mean that it has a significantly greater visual presence from adjoining property compared to the permitted extension and the smaller outbuilding. Erecting a structure of such an overall depth and height to the rear of the permitted extension has created an appreciably greater feeling of being enclosed by built form in rear-facing ground floor rooms and in parts of the back gardens at Nos 9 and 13, compared to the pre-existing situation. The open sides and lightweight materials do not prevent the canopy from being perceived as an assertive built feature in outward views from ground floor windows at the rear of Nos 9 and 13, as well as from parts of their back gardens. Whilst those back gardens might be of generous size, that does not offset the visual impact of the canopy as seen from Nos 9 and 13 to any great extent.
7. Consequently, and although there is little to indicate that levels of natural light have been greatly affected, the canopy has significantly eroded the generally open aspect previously enjoyed by occupiers at the rear of Nos 9 and 13, creating a more restrictive outlook and leading to occupiers of those properties experiencing an appreciably greater sense of enclosure, with significant and unacceptable harm caused to their living conditions. By causing an unacceptable loss of outlook to neighbouring occupiers and having a depth which exceeds 3.6 m, the canopy fails to accord with criteria in Policy DMHD 1 of the Hillingdon Local Plan Part 2-Development Management Policies (LP). The adverse impact on the amenity of adjacent properties fails to accord with criterion in LP Policy DMHB 11. Also, the failure to ensure a high standard of

¹ Council Ref: 25312/APP/2015/2675.

amenity for existing and future users is inconsistent with paragraph 130(f) of the National Planning Policy Framework (The Framework).

Character and appearance

8. The dwelling is located in an established residential area, in which properties are generally of similar architectural style and have similar external finishes. For the most part, the properties are arranged close together in terraces, occupying plots of a shape and size similar to that of the dwelling, also with comparably sized back gardens. Much like the permitted extension, other residential extensions in the vicinity are mostly modest in scale and do not protrude greatly beyond the original rear elevations. Such extensions are often finished using external materials similar to those of their host dwelling, or otherwise utilise lightweight finishes. These factors all contribute markedly to the pleasant, cohesive and well-spaced residential character and appearance of the surrounding area.
9. Having a predominance of glazing, a slender frame and open sides, the canopy was clearly conceived of as a lightweight structure. However, the monopitch roof form and the elongated depth contribute to the canopy having a horizontal emphasis which does not sit easily alongside the more vertically inclined openings on the rear elevation of the dwelling and the higher roofline of the permitted extension. The overall depth of the canopy in relation to the original rear elevation of the dwelling adds to the sense of awkwardness. This is given further emphasis by the canopy materials, which neither respect nor reflect the more robust qualities of traditional external finishes on the dwelling and those generally found on nearby properties. Finishing the frame and supports in a colour similar to the window and door frames in the rear elevation does not sufficiently integrate the canopy with the dwelling. All these factors mean that the canopy does not relate well visually to the dwelling and it fails to appear as a subservient addition.
10. Furthermore, the canopy has significantly reduced the area of undeveloped back garden at the property. A much greater portion of back garden is now covered by or adjacent to substantial built form compared with prior to its erection. Whilst a reasonably sized back garden remains, the canopy has considerably eroded the sense of openness that previously would have been apparent at the rear of the property. This has led to an appreciably more built-up feel, entirely at odds with the greater sense of space evident in back gardens in the immediate and wider environs. From what I could see there are few instances in the vicinity of dwellings having been so significantly enlarged at the rear. Although there are limited public views of the canopy, the visual harm caused is readily apparent from adjoining property.
11. For the above reasons, the canopy fails to integrate satisfactorily with the dwelling and it is viewed as an obvious and unsympathetic further addition, appearing as an alien built feature in the environs and causing unacceptable harm to the character and appearance of the dwelling and its surroundings. This fails to accord with criteria in LP Policy DMHD 1, having regard to the adverse impact on local character and appearance, the unsatisfactory relationship with adjacent dwellings, the failure to ensure an appearance subordinate to the main dwelling and the failure to respect the design of the original dwelling or to use matching materials. By not harmonising with the local context when considering the surrounding scale of development, the

canopy does not accord with criterion in LP Policy DMHB 11. Also, by not achieving a well-designed place the canopy is inconsistent with chapter 12 of the Framework.

Other matters

12. Although the appellant might not have set out to undertake development unlawfully, that can only be given limited weight.

Ground (a) conclusion

13. The canopy fails to accord with the Development Plan and is inconsistent with the Framework. Therefore, the ground (a) appeal does not succeed.

Ground (g) appeal

14. The ground of appeal is that the time specified for complying with the notice requirements falls short of what should reasonably be allowed.
15. The remedial works involved in removing the canopy would be of modest scale and would not be particularly complex. Such works are likely to be a relatively straightforward task for an experienced small building contractor. There should be no shortage of suitable contractors who would be available to undertake the works, given a reasonable period of notice.
16. Even so, a month gives the appellant relatively little time in which to search for and to appoint a suitable contractor, to arrange for the undertaking of the works and to allow for their completion. Also, whilst the works are unlikely to be particularly costly, a month provides limited time in which to make any necessary funding arrangements. The appellant cannot be expected to have already arranged for removal of the canopy as they are entitled to assume a successful outcome in their ground (a) appeal.
17. Set in the above context, three months represents a more reasonable time in which to expect the works to be completed. As so extended, the time for compliance would strike an appropriate balance between remedying the planning harm identified above as soon as is practicable, whilst also not imposing a disproportionate burden on the appellant.
18. Consequently, I conclude that a reasonable time for compliance would be three months. The appeal under ground (g) succeeds to that extent.

Conclusion

19. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the deemed application.

Stephen Hawkins

INSPECTOR