



Appeal Decision

Site visit made on 3 May 2023

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 May 2023

Appeal Ref: APP/A5270/C/22/3297862

12 Worcester Gardens, Greenford, Middlesex UB6 0BH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Agnieszka Byrne against an enforcement notice issued by the Council of the London Borough of Ealing.
- The enforcement notice was issued on 18 March 2022.
- The breach of planning control as alleged in the notice is the construction of a two storey front gable extension, porch extension, second storey front infill extension, two storey side and rear wraparound extension, a single storey rear extension, dormer extension and removal of first floor rear bay window.
- The requirements of the notice are:
 1. Remove from the property the two storey front gable extension;
 2. Remove from the property the porch extension;
 3. Remove from the property the second storey front infill extension;
 4. Remove from the property the two storey side and rear wraparound extension;
 5. Remove from the property the single storey rear extension;
 6. Remove from the property the dormer extension;
 7. Reinstate the front and rear bay windows at first floor level, and
 8. Restore the building to its original condition.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

The appeal on ground (a)

1. The ground of appeal is that planning permission should be granted for what is alleged in the notice. The main issues are:
 - i. the effect on the character and appearance of the host property and the area, generally; and
 - ii. the effect on the living conditions of the occupants of a neighbouring residential property with particular reference to enclosure.

The appeal site and Background

2. The appeal site comprises a two storey end of terrace residential property which is located in a predominantly residential area. It is positioned on the north western side of Worcester Gardens and is the last property along Worcester Gardens before Currey Road. As a consequence of the gap between the property and the rear of houses along Currey Road, there are relatively open views of the south western flank of the building from the rear of

residential properties along Currey Road and from the approach along Worcester Gardens from Currey Road.

3. Planning permission was approved under reference PP/2011/1763 in June 2011 for a two storey side and part single part two storey rear extensions at the appeal site. It is common ground that this permission was never implemented as approved, but instead the appellant contends that it was in fact implemented with some unspecified alterations. Therefore, it expired in June 2014.
4. A non-material amendment to the development approved under PP/2011/1763 was subsequently approved under reference 185446NMA in December 2018. However, it is my understanding that it was approved without a site visit to confirm that the scheme approved under PP/2011/1763 had been implemented. Since it is clear to me from the evidence submitted that the 2011 development was never, in fact, implemented the non-material amendment approved has no effect because an application under s96A of the Act can only be effective if the originally approved permission remains valid.
5. A further planning permission for the alteration of roof form from hip to gable end; rear roof extension; and installation of three rooflights to front roof slope was approved on 1 February 2019 under reference 185315HH but was not implemented and expired on 1 February 2022.
6. The appellant comments that whilst these consents have not been implemented, they serve to illustrate the fact that the Council has previously approved significant alterations to the property. That is indeed the case, but it is necessary for me to consider the development the subject of the enforcement notice against what was there before, rather than against previous schemes that have not been implemented.

Character and appearance

7. Worcester Gardens is a residential street where houses are relatively uniform in appearance and character, featuring tiled roofs, two storey front gables with bay windows and tiles between the ground and first floor windows. Most houses have retained pebble dash finish, but some are now painted. Arched porches are a common feature of houses along the same side of the street as the appeal property. A number of other porches have been built over the years of different designs and materials, but they are relatively modest in scale and impact on their hosts and the street scene, more generally.
8. In significant contrast to other properties in the street, the appeal house has an overtly modern appearance with a character which is very much at odds with the other properties. The two storey front gable has been extended forward and also squared off. Consequently, the shape, form and fenestration arrangement which is typical of this and other properties, locally, has been lost along with the form of the front bay and tiled arrangement which demarcates the two floors. When seen alongside the porch, first floor infill extension and other alterations to the front elevation, the development significantly changes the appearance of the property frontage. The resultant frontage contrasts with the surroundings and is very much at odds with the established pattern and character of the street scene. The unsuitable rendered finish, roofing materials and other features such as the roller shutters fitted to the main windows on all elevations highlight the unauthorised alterations that have been carried out.

9. The two storey side extension incorporates a gable roof form on the same plane as the existing main roof and has no setback, lower ridge height or any other feature to indicate that it is any part of an extension to the property. In addition, to the rear the two storey extension is roofed to the edge of the building and the dormer covers the full width of the roof with no set in or set back from the eaves. As a result of the overall roof forms implemented, there is little remaining evidence of the original roof form. The effect of this is that the building now reads as a three storey end of terrace house rather than a two storey house which is characteristic of the street and the wider area.
10. The alterations and extensions completely subsume the original dwelling and its design and form and therefore dominate the house, are overbearing additions and are very much at odds with the character and appearance of the area, conflicting with the established pattern and form of the locality. Although some nearby properties have relatively modest single storey side extensions, there are no other properties on Worcester Gardens which have wrap around two storey extensions or other similar side extensions to the one the subject of the Notice. The appellant has submitted that the ridge height of the property remains uniform with the adjoining dwelling, but that does not mean that the overall development provides a uniform appearance. Indeed, the scheme implemented has a materially different appearance from others in the immediate vicinity.
11. There is no dispute between the main parties that single storey extensions are relatively common in the area. The appellant has also stated that many local properties have roof extensions, but the evidence submitted by the Council and my own site observations indicate otherwise.
12. The appellant has drawn my attention to two other properties a little further away which have wrap around extensions. One of the examples is in Northolt and it is my understanding that the extension was a single storey wrap around extension in specific circumstances where there was an existing side extension and permission for a rear extension. The Council submits that the decision to approve that particular scheme was very much on balance. The second example cited by the appellant was also a single storey wrap around extension at a property which already had a side extension. Whilst these examples show that wrap around extensions have been approved in Ealing, they do not appear to me to be comparable to the development which is the subject of the current appeal. They are in different areas and the deemed application before me is for a significantly different development. In any case, I am required to determine each case on its own merits having regard to the particular circumstances of the development and the effect on the specific locality in which it is situated.
13. With particular reference to the porch, I do not dispute that other properties in the locality and in the wider area have a range of porches of different sizes, materials and designs. However, the scale of the subject porch is larger than others and is at odds with the frontage of other houses along the street. A much smaller porch could potentially be built under permitted development rights, but such a development would not have the impact of the subject porch.
14. The appellant also contends that the unfinished appearance of the development places it at odds with the surrounding properties. This may be a contributory

factor, but the main reasons for the harmful appearance relate to its overall scale, design and relationship to the original host property and surroundings.

15. Therefore, on this main issue I conclude that the development is harmful to the character and appearance of the host property and the area, generally. As such it conflicts with Policy D3 of the London Plan, Policies 7.4 and 7B of the Ealing Development Management Development Plan Document Adopted 10 December 2013 (the DMDPD), SPD4 Residential Extensions Supplementary Planning Document and the National Planning Policy Framework (the Framework). Among other objectives these require new development to enhance local context by delivering buildings that positively respond to local distinctiveness through their appearance and shape, development in Ealing's existing built areas should complement their street sequence, building pattern, scale and detailing and new development must be coherent and have a positive visual impact.

Living conditions

16. The appellant argues that the rear extension to the appeal property adjoining 10 Worcester Gardens is single storey and does not disturb the amenity of the neighbouring property and will not decrease the amount of daylight/sunlight reaching first floor windows and views overlooking the rear garden. It is clear to me from the Notice that the Council's overall concerns with respect to living conditions relate to the cumulative effect of the development along with its situation along the boundary with the adjoining property, No 10 Worcester Gardens.
17. The single storey rear extension part of the unauthorised development is situated on the shared boundary between the host property and No 10 where there is a window serving a habitable room close by. In addition, the large two storey part of the rear extension sits only 2.5 metres from the shared boundary. There is no suggestion from the Council that the development harms natural light to the first floor windows neighbouring property and views over the rear garden. However, given the overall scale of the development and its close proximity to the neighbouring residential property there is an undesirable dominating effect which results in an undue sense of enclosure to occupants, with particular reference to rear facing ground floor windows and the garden area.
18. As a result of the significant distance between the development and the rear of residential properties along Currey Road I do not consider that there is significant harm to living conditions with respect to creating an undue sense of enclosure.
19. However, on this main issue I conclude that the development has a harmful effect on the living conditions of the occupants of a neighbouring residential property with particular reference to enclosure. As such there is conflict with Policy D3 of the London Plan, Policy 7B of the DMDPD, the SPD and the Framework. Among other objectives these seek to ensure that new development achieves a high standard of amenity for users and adjacent uses and the amount of development on a site should be appropriate.

Other matters

20. All parts of the development are unauthorised and consequently permitted development cannot be granted retrospectively. Indeed article 3(5) of the Town and Country Planning (General Permitted Development) (England) Order 2015 is in place to prevent permitted development rights operating as a fall back. The 'fallback position' or what is likely to happen if the enforcement notice is upheld is an important material consideration on the merits of any deemed planning application but there must be a realistic and not merely theoretical prospect of the fallback position being an alternative. In this case, I do not consider the fallback to be a realistic position given the fact that permission has previously been granted for extensions and alterations at the property, but the appellant has chosen to go ahead with a significantly different development.
21. The appellant has stated that she would accept a split decision in this case as the porch and single storey rear extension are capable of being severed from the rest of the development. However, the single storey rear extension has a shared wall with the two storey rear extension and without that two storey element would not create a legible or coherent development. As such it is not clearly severable. In addition, the porch is harmful in its own right given its scale and design and leaving it in place would have consequences for other parts of the development such as the need to remove the first floor infill and restore the gable and bay. Therefore, in this case in my judgement a split decision is not a realistic option.

Conclusion

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

A A Phillips

INSPECTOR