



Appeal Decision

Site visit made on 11 May 2023

by M. P. Howell BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th JUNE 2023

Appeal Ref: APP/R5510/C/22/3299407

44 Ferrers Avenue, Yiewsley UB7 7AB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Tarif Miah against an enforcement notice issued by the Council of the London Borough of Hillingdon.
- The notice, numbered HS/ENF/020111, was issued on 14 April 2022.
- The breach of planning control as alleged in the notice is without planning permission, the development of an additional rear canopy extension ("the breach") at 44 Ferrers Avenue, Yiewsley, UB7 7AB.
- The requirements of the notice are:
 - (i) Demolish and remove the unauthorised rear canopy extension hatched in blue on the plan attached.
 - (ii) Remove from the land all debris waste building materials plant equipment machinery resulting from the demolition works.
- The period for compliance with the requirements is three (3) calendar months.
- 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. The development is fee exempt.

Summary Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Matters Concerning the Enforcement Notice

1. Development is defined in section 55(1) of the 1990 Act as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. In this context, the reference to '...the *development* of an additional rear canopy extension...' in paragraph 3 of the notice is imprecise. Furthermore, describing the works as an 'additional' and reference to the address is unnecessary. In the interests of clarity, a correction of the notice to state '...the *erection* of a rear canopy extension' and the deletion of the address, '44 Ferrers Avenue, Yiewsley UB7, 7AB' would not cause injustice in this case.
2. In paragraph 5, the words '... and remove the unauthorised' are not necessary. The extension only needs to be demolished to remedy the breach, whereas Part (ii) of the requirements already requires removal of the waste resulting from the demolition. In addition, it does not need to be described as 'unauthorised' when it is identified via the hatching in blue on the plan. In the interests of clarity, a correction of the notice to state 'demolish the rear canopy extension hatched in blue on the attached plan' would not cause injustice.

The Appeal on Ground (a) and the deemed Planning Application

3. The **main issues** are the effect of the development on the character and appearance of the area and the living conditions of the occupants of 46 Ferrers Avenue, with regard to outlook and light.

Reasons

Character and appearance

4. The appeal site is a detached two storey dwelling fronting the road. The dwellings on the Avenue are mostly detached and sit within spacious plots with large rear gardens. The dwellings vary in style and a number have been extended, including the appeal property. Despite this, the scale and appearance of the dwellings as well as shared design features and spaces in-between have largely been maintained. The traditional layout, modest density and spacing, together with shared design features results in a pleasant character and appearance to the area.
5. The existing dwelling at 44 Ferrers Avenue has an extended roof as well as a part two storey, part single storey flat roof rear extension. The development subject of the appeal is to the rear these extensions and measures 4.48 metres (m) deep. Policy DMHD 1 of the Hillingdon Local Plan: Part 2: Development Management Policies 2020 (Local Plan) is prescriptive, stating that single storey rear extensions to detached houses with a plot width of 5 metres or more, should not exceed 4.0 metres in depth.
6. The depth of the development conflicts with the policy requirement by exceeding 4m. However, as the policy indicates 'should not exceed', it is necessary to consider the merits of the proposed extension in its context. The development has a scale, design, single storey height, and finishing materials that are typical of a conservatory or garden room type extension to a dwelling. The extension is also positioned to the rear of the existing extensions and is lower in height and set in from its edge on one side, making it subservient to the existing extensions and host property. Furthermore, sufficient spacing exists between adjoining neighbours on either side.
7. When the above factors are combined, I consider that the development is a subordinate addition that, even when seen in combination with previous extensions, has a satisfactory relationship with the adjacent dwellings and does not cause unacceptable harm to the character and appearance of the host dwelling. The extension is also not visible from public vantage points on Ferrers Avenue or adjoining streets, limiting the impact on the character and appearance of the dwelling and wider area.
8. Accordingly, the effect of the development on the character and appearance of the host property and the area is acceptable. Despite the minor conflict with criteria B (ii) of Policy DMHD 1 of the Local Plan, I can see no harm. The proposal complies with the overall aims and objectives of Policies DMHD 1 and DMHB 11, which seek to maintain the quality of the built environment by ensuring development harmonises with the local context and has no adverse impact on the character, appearance, or quality of the wider area.

Living conditions

9. The neighbouring dwelling at 46 Ferrers Avenue is separated from the appeal site by approximately 1-2m. It has a single storey rear extension that is similar in depth to the two-storey element of the appellant's approved flat roof extensions. The dwellings are also separated by a high fence for part of the party boundary. The gardens are long, spacious, and level with each other.
10. I appreciate that the development is positioned close to the shared boundary and has been added to existing flat roof extensions to the rear. However, a gap is retained between the dwellings, and a significant proportion of the depth of the existing flat roof extensions is mitigated by the neighbour's rear extension. Furthermore, the development has a moderate depth, with a low single storey flat roof that is only marginally taller than the adjoining boundary fence. Accordingly, even when considered cumulatively with the existing extensions, the moderate depth and low height of the development means it does not adversely impact upon the existing outlook from the neighbour's rear windows or private garden.
11. Whilst no technical evidence has been provided by either party, the orientation of the buildings along with the scale and height of the development means that any loss of light or overshadowing to the neighbour's garden or property is very limited. Based on the evidence before me, the garden space and dwelling receive sufficient light throughout extended periods of the day.
12. Consequently, the development does not adversely affect the living conditions of the occupants of No 46, having regard to outlook and light. The development accords with Policies DMHB 11 and DMHD 1 of the Local Plan, which amongst other things, seek to ensure extensions have an appropriate relationship with adjoining neighbours and do not adversely impact on their living conditions, with respect to outlook and light.

Conditions

13. I note the conditions suggested by the Council in respect of materials to match the existing property and a condition restricting the use of the roof as a roof garden, terrace, balcony, patio, or similar amenity area.
14. In this instance, the extension is completed, and the proposal is to regularise the extension as built. As I have concluded the extension is acceptable with the current materials, a matching materials condition would not be necessary. Furthermore, there is currently no access to the roof from the main house. The works to form an opening and access the roof as veranda, balcony or raised platform would require planning permission. As such, it is not necessary to condition the permission in this manner.
15. In view of the above, I find that no conditions are necessary in this instance.

Conclusion

16. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the rear canopy extension as described in the notice as corrected. The appeal on ground (g) does not therefore fall to be considered.

Formal Decision

17. It is directed that the enforcement notice is corrected by:

In paragraph 3 (i), the deletion of the words 'the development of an additional' and their substitution with the words 'the erection of a' and the deletion of the words '44 Ferrers Avenue, Yiewsley UB7, 7AB'

In paragraph 5 (i), the deletion of the words 'and remove' and 'unauthorised'.

18. Subject to the corrections, the appeal is allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out. Namely, the rear canopy extension at 44 Ferrers Avenue, Yiewsley UB7 7AB as shown hatched in blue on the plan attached to the notice.

M. P. Howell

INSPECTOR