



Appeal Decisions

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: 3RD JULY 2023

Appeal A Ref: APP/R5510/C/22/3297482

57 Newdigate Road, Harefield, Uxbridge, UB9 6EL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr D Collison of Stef & Phillips Limited against an enforcement notice issued by the Council of the London Borough of Hillingdon.
- The notice, numbered HS/ENF/020043 (A), was issued on 22 March 2022.
- The breach of planning control as alleged in the notice is without planning permission, the enlargement and alteration of the roof to include raising of ridge height, rear dormer, and insertion of rooflight on front facing roof slope, the alteration to the front elevation of the dwellinghouse to include external pipe run and the development of the single storey rear infill extension at 57 Harefield Road, Harefield. ("the breach").
- The requirements of the notice are:
 - (i) Reduce the height of the roof ridge to its original height.
 - (ii) Demolish and remove the rear facing roof dormer shown in the approximate position outlined in blue on the attached plan and reinstate the rear roof slope with tiles to match existing.
 - (iii) Remove and cover over the roof light on the front roof slope with tiles to match existing.
 - (iv) Remove the external pipeline from the front elevation of the dwelling house as shown outlined in red on the attached photograph marked Appendix A.
 - (v) Demolish and remove the single storey rear infill extension shown in the approximate position outlined in green on the attached plan.
 - (vi) Remove from the land all debris, items, building materials to include plant and machinery and fittings resulting from compliance with (i) to (v) above.
- The period for compliance with the requirement is: Three (3) calendar months.
- The appeal is proceeding on the ground set out in section 174(2)(a) 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.

Summary Decision: Appeal A succeeds in part and permission for that part is granted, but otherwise the appeal fails, and the enforcement notice as corrected is upheld as set out below in the Formal Decision.

Appeal B Ref: APP/R5510/W/22/3293671

57 Newdigate Road, Harefield UB9 6EL

- 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 Mr D Collison against the decision of Council of the London Borough of Hillingdon.
- The application Ref 76008/APP/2021/2764, dated 14 July 2021, was refused by notice dated 15 December 2021.
- The development proposed is a dormer window and single storey rear extension.

Summary Decision: Appeal B is dismissed.

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 a single storey rear infill extension ...' and citing the address incorrectly in paragraph 3 of the notice is imprecise and confusing. In the interests of clarity, a correction of the notice to state '...the erection of a single storey rear extension' and the deletion of the word 'infill' and the address, '57 Harefield Road, Harefield' would not cause injustice in this case.
2. In paragraph 5 (ii), the words '... and remove' and the words 'and reinstate the rear roof slope with tiles to match existing' are not necessary. Although I appreciate the Council are only seeking works to reinstate the roof, requiring these works goes beyond what is necessary to remedy the breach. Also, 5 (vi) requires removal of the waste resulting from the works in any event.
3. For the same reasons as above, the words '....and cover over' and 'with tiles to match existing' in paragraph 5 (iii) and '...and remove' from paragraph 5 (v) should be deleted. These corrections would not cause injustice to either party.
4. For consistency with the corrections made to the allegation, 'infill' should be deleted from paragraph 5 (v).

Background and Preliminary Matters

5. The development on site is subject of two separate enforcement notices, one¹ alleges the material change of use of the building to six flats. No ground (a) appeal has been plead for the material change of use, and for simplicity, it has been dealt with in a separate decision letter.²
6. The second notice, the subject of this section 174 appeal (Appeal A), is concerned with the operational development alleged in the Enforcement Notice (Notice) which consists of raising the roof height, the installation of a roof light and pipework to the front, a rear dormer, and a single storey rear extension. The linked section 78 appeal (Appeal B) does differ from the works alleged in the Notice. Most notably, Appeal B seeks permission for the dormer and rear single storey extension but does not include the retention of the works to raise the height of the roof, the roof light or pipework to the front.
7. The Appeal B scheme does not propose a material change of use of the building or the raising of the roof. However, the Council cited eight reasons for refusal, four of which relate to the alleged use as six flats and another to the raising of the roof. It is generally accepted that reasons for refusing planning permission can only relate to the development for which permission was sought. As the application proposal did not include the raising of the roof or the material change of use to flats, the first, third, fifth, sixth and eighth reasons for refusal are not relevant to the development sought. Consequently, I have not considered these reasons for refusal in respect of Appeal B.

¹ Numbered HS/ENF/020043 (B)

² APP/R5510/C/22/3297486

8. I have considered Appeal A and B on their own individual merits. However, as the main issues are the same and to avoid duplication, I have considered them together.
9. It is acknowledged that part of the works alleged in the Notice refer to a rooflight and some pipework to the front of the property. With the benefit of a site visit, the rooflight serves the second-floor room and the pipework appears to serve the external gas meter box. There is no dispute that these works have been carried out. However, the appellant claims that they are permitted development.
10. Such a claim amounts to a hidden ground (c) appeal. The burden of proof rests with the appellant and the relevant test is the balance of probability. As limited evidence has been advanced to support the appellant's claim that these works are permitted development, they have failed to discharge the required burden of proof. An appeal on ground (c) would therefore fail. Furthermore, as the works are not proposed in Appeal B, I cannot consider them as part of this appeal.

Appeal A: the Ground (a) Appeal and the Deemed Planning Application, and Appeal B

11. The **main issues** in these appeals are:

- The effect of the development on the character and appearance of the area, including the preservation or enhancement of Harefield Conservation Area (Conservation Area).
- The effect of the rear single storey extension on the living conditions of the occupants of 59 Newdigate Road having regard to outlook and light.

Reasons

Character and Appearance

12. The property at 57 Newdigate Road is a mid-terrace two storey period building finished in brick and located within Harefield Conservation Area (Conservation Area). At the side of the terrace block there is a private road providing vehicle access to residential garages, two detached properties and a pedestrian lane to the rear of the terrace on Newdigate Road.
13. The dwellings in the terrace blocks between 17 and 61 Newdigate Road are similar in appearance, set back behind a small front wall, some have bay windows, in a brick or render finish with pitched roofs. The rear of the terrace also maintains a consistent form and appearance, with few alterations to the rear roof plane or the original two storey mono pitched projections. The rear of terrace and the appeal property is visible from the garages and rear pedestrian lane, as well as from wider public viewpoints from Newdigate Road East and Newdigate Green.
14. Based on my observations and the Conservation Area Village Map provided, the Conservation Area covers the core of the village of Harefield, including the period properties on Newdigate Road. The significance of the Conservation Area on Newdigate Road appears to be largely defined by the materials and architectural quality of the period buildings as well as the pockets of green space. The properties, including No 57, retain their traditional form, character and features, which has a collective consistency that adds value to the special interest of the Conservation Area.

15. Policy DMHD 1 of the Hillingdon Local Plan: Part Two - Development Management Policies 2020 (Local Plan 2) is prescriptive and requires dormers to be subservient to the scale of the existing roof and should not exceed two thirds of the roof slope. Furthermore, in respect of conservation areas, dormers should take a traditional form and the windows should match the proportions, size, and glazing pattern of the first-floor windows. Regarding single storey rear extensions, the policy states that rear extensions to terraced houses with a plot width of 5 metres or less, should not exceed 3.3 metres in depth.
16. With respect to Appeal A, the rear dormer is a large roof addition that increases the roof height of the property, as well as occupying most of the width and depth of the rear roof plane. By virtue of its scale, height and design the proposed dormer is oversized, appearing as a discordant and bulky box like addition to the rear roof plane. The shape and form of the original roof plane, as well as the consistent roofscape on the immediate terrace, has been diminished by the introduction of the large dormer and the raising of the roof. Furthermore, the window design and proportions are not consistent with the existing first floor openings and the use of a reddish concrete tile contrasts with the more dominant brown roof tiles present in the street.
17. The impact of the dormer is also exacerbated by its prominence. Not only is the rear of the terrace visible from the rear garage area and adjoining roads, but the raising of the roof means it is visible from localised views on Newdigate Road.
18. Regarding Appeal B, the proposed development does not propose an increase in the ridge height. The reduction in the roof height would provide some betterment, but the proposed modern box-like dormer would still be a visually dominant addition that occupies a significant proportion of the rear roof plane. It would represent a bulky and top-heavy addition, that fails to respect the traditional design and form of the host dwelling and first floor window openings.
19. Appeals A and B propose the single storey rear extension. This development is a separate and distinct element to the roof alterations. The depth of the rear extension conflicts with the requirement set out in Policy DMHD 1 of Local Plan 2 by exceeding 3.3m. However, the policy indicates 'should not exceed', which provides some flexibility for rear extensions that do not comply. Despite the depth exceeding the policy requirement, it does not extend further than the original two storey mono-pitched projection. The extension is single storey and low in height to its eaves, making it subordinate to the main building and rear projection.
20. Consequently, the scale, form and finish of the rear extension does not have an adverse impact on the scale, character, or appearance of the host building. The extension is also not visible from public vantage points from the front or rear, limiting the impact on the street scene and Conservation Area.
21. Although I consider the single storey rear extension acceptable, the raising of the roof and the rear dormer has a detrimental impact on the character and appearance of the host property and the rear terrace street scene. Further to this, despite the differences proposed in Appeal B, the impact of the large box like dormer would still be an unacceptable form of development. As such, both forms of development would adversely impact on the traditional form, character and appearance of the host property. Furthermore, the works to the roof diminish the collective consistency of the unaltered roofscape, which adds value to the special qualities of the Conservation Area.

22. The roof alterations and dormer fail to preserve the distinctiveness of the Conservation Area, resulting in less than substantial harm. Paragraph 202 of the National Planning Policy Framework 2021 (the Framework) is applicable in these instances and indicates that less than substantial harm to heritage assets should be weighed against the public benefits of the proposal.
23. The public benefit of this development is that the extended building would provide increased accommodation for the occupiers. Although the larger building would be beneficial in terms of the internal space, this benefit of uplift in the size of the accommodation carries limited weight. In my judgement, the benefits would not be sufficient to outweigh the less than substantial harm that I have identified. In coming to this conclusion, I am giving considerable weight and importance to paying special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
24. Accordingly, the developments would be contrary to the aims and objectives of Policy BE1 and HE1 of the Hillingdon Local Plan: Part One- Strategic Policies 2012 (Local Plan 1), Policies DMHB 1, DMHB 4, DMHB 11, DMHB 12 and DMHD 1 of Local Plan 2 and Policies HC1, D1, D3 and D4 of the London Plan 2021 (London Plan). These policies, amongst other things, require development to be of a high standard of design that is sympathetic to and contributes positively to the character and appearance of the site, its surroundings as well as conserving or enhancing heritage assets, such as Conservation Areas.
25. The development, insofar as it relates to the single storey rear extension, would be compliant with Policy BE1 of the Local Plan 1 and Policy DMHB 11 of the Local Plan 2, which require development to be of a high standard of design and contributes positively to the character of the area.
26. The policies set out above are generally consistent with the design and heritage policies set out in section 12 and 16 of the Framework. For the same reasons, the roof alterations and dormer would not be compliant with the policies of the Framework, but the single storey rear extension would be acceptable.

Living Conditions

27. The neighbour at 59 Newdigate Road is an adjoining two storey terraced dwelling. The layout is such that the neighbour's ground floor kitchen and bathroom windows in the two-storey rear projection face the single storey rear extension. A dining room window on the ground floor of the main rear elevation would also be in proximity to the single storey rear extension. Although the side windows in the rear projection face the single storey rear extension, the outlook from these windows and the rear facing window are already dominated by the side elevation of the original two storey projection at No 57.
28. Whilst the extension is closer to the neighbour's windows, it is single storey in height with a lean-to roof that slopes away from the party boundary. Given the orientation of the two properties and the proximity of the window to the existing two storey elevation, I do not consider that the outlook from the windows would be more oppressive than that previously experienced. Nor, for the same reason, do I consider that the extension has a significant effect on light reaching these windows.
29. Consequently, the rear single storey extension does not adversely affect the living conditions of the occupants of No 59, regarding light and outlook.

30. Accordingly, the rear single storey extension complies with Policy DMHD 1 of the Hillingdon Local Plan 2, which seeks to ensure that there is no unacceptable loss of outlook to neighbouring occupiers from the development. The rear single storey extension would also be compliant with paragraph 130 of the Framework, which requires development to create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Conditions

31. I note the conditions suggested by the Council, which mostly relate to the use of the building as six flats, including a plans condition, a site supervision management plan and details of refuse and cycle storage. As the use has been considered separately, these conditions are not relevant to the development being considered.
32. In this instance, the permission granted is with respect to the operational development for the single storey rear extension as completed. As I have concluded the extension is acceptable in its current form, the conditions suggested would not be necessary.

Conclusions

33. For the reasons given above I conclude that Appeal A should succeed in part only, and I will grant planning permission insofar as it relates to the single storey rear extension, but otherwise I will uphold the Notice with corrections and refuse to grant planning permission in respect of the other part of the matters, namely the raising of the roof, rear dormer, rooflight and pipework to the front of the property. The requirements of the notice will cease to have effect in so far as they are inconsistent with the planning permission which I will grant by virtue of s180 of the Act.
34. For the reasons given above, I conclude that Appeal B should be dismissed.

Formal Decisions

Appeal A Ref: APP/R5510/C/22/3297482

35. It is directed that the enforcement notice is corrected by:
- *In paragraph 3 of the notice, the deletion of the words '...the development of a single storey rear infill extension ...' and, '57 Harefield Road, Harefield' shall and their substitution with the words 'the erection of a single storey rear extension.'*
 - *In paragraph 5 (ii), the deletion of the words '... and remove' and the words 'reinstate the rear roof slope with tiles to match existing'.*
 - *In paragraph 5 (iii) the deletion of the words '....and cover over' and 'with tiles to match existing'.*
 - *In paragraph 5 (v), the deletion of the words '...and remove' as well as 'infill'.*
36. Subject to the corrections, Appeal A is allowed insofar as it relates to land edged in red on the plan where permission is granted for the single storey rear extension outlined in green on the plan. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as

amended, for the rear single storey extension at 57 Newdigate Road, Harefield UB9 6EL.

37. Subject to corrections, Appeal A is dismissed, and the enforcement notice is upheld as corrected insofar as it relates to land edged in red on the plan where permission is refused for the enlargement and alteration of the roof to include raising of ridge height and dormer, the front rooflight and pipework on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B Ref: APP/R5510/W/22/3293671

38. Appeal B is dismissed.

M. P. Howell

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/R5510/C/22/3297482	Mr D Collison (Stef & Phillips Limited)
Appeal B	APP/R5510/W/22/3293671	Mr D Collison