



Appeal Decision

Site visit made on 23 August 2023

by D Moore BSc (HONS), MCD, PGDip, MRTPI, IHBC

an Inspector appointed by the Secretary of State

Decision date: 29/08/2023

Appeal Ref: APP/B4215/C/22/3311650

111 Kingsway, Manchester M19 2LN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Golum Reza Pakbin against an enforcement notice issued by Manchester City Council.
- The enforcement notice was issued on 25 October 2022.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a two-storey side extension and a part three-storey, part two-storey and part single-storey extension to the rear.
- The requirements of the notice are:
 - 1.a) Demolish the two-storey side extension and the part three-storey, part two-storey and part single-storey extension to the rear, as shown in the attached photographs ENF/01 and ENF/02.
 - 1.b) Reinstate the roof, front, rear and side elevations of the property to their condition before the breach took place, to their condition as shown in the attached drawing 18-615(01)001 rev PL0 as "EXISTING GA FRONT ELEVATION @1:100", "EXISTING GA REAR ELEVATION @1:100", "EXISTING GA SIDE ELEVATION1 @1:100" and "EXISTING GA SITE PLAN @1:200", using materials that are similar in appearance to the existing building.Or:
 - Make alterations to the development to form a part single-storey, part two-storey side and part single-storey, part two-storey rear extension, in full accordance with the attached plans and drawings numbered 18-615(02)001 rev PL2 and 18-615(03)001 rev PL2, using materials that are similar in appearance to the existing building.
 - 2. Remove from the land all building materials, rubble and waste resulting from carrying out the above.
- The period for compliance with the requirements is 12 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (d) of the 1990 Act as amended.

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

Preliminary Matters

1. Planning permission was granted on 26 October 2018 for extensions to the appeal property (Ref 120637/FH/2018). The approved development comprised a two-storey side extension with a hipped roof and lower ridge height. The first floor would be set back by approximately 2.65m from the front of the original house. The rear extension would be a combination of single-storey and two-storey with hipped roofs. The two-storey extension adjoining the other half of the semi-detached property, No 113, would project a maximum of 1.2m from the original rear wall.

2. I saw that the development as built bears little resemblance to that approved. The two-storey side extension is flush with the original front wall and the roof has been constructed with a gable. A two-storey rear extension has been built, which incorporates a large 'box' dormer, amounting to a three-storey extension. The works have resulted in an increase in the ridge height to the main roof. There was also a single-storey rear extension across the full width of the property. The development was not complete at the time of my visit. The interiors were not finished, and the single-storey extension was covered in tarpaulin.

The ground (d) appeal

3. In order to succeed on ground (d), the appellant must show on the balance of probabilities, that the matters alleged in the enforcement notice were substantially completed four or more years prior to the issue of the notice, such that it is too late for the Council to take enforcement action.
4. The appellant indicates that the Council's building inspector visited the property on several occasions in 2018 and no concerns were raised about the development. It is also suggested that the works were completed in 2014, pursuant to previous permissions. The four year time limit for enforcement action, as set out in Section 171B(1) of the 1990 Act which concerns operational development, applies from the date on which the operations were 'substantially completed'. I saw that the extended building lacked service fittings and internal finishes and the wall of the single-storey rear extension was incomplete. Consequently, the operations enforced against could not be regarded as substantially completed at the date the notice was issued.
5. The appellant has not shown that it is too late to take enforcement action and the ground (d) appeal must fail, therefore.

The ground (a) appeal and the deemed planning application

Background and Main Issues

6. The ground (a) appeal is that planning permission should be granted for the matters alleged. The terms of the deemed planning application are derived from the allegation. Hence, planning permission is sought for the erection of a two-storey side extension and a part three-storey, part two-storey and part single-storey extension to the rear.
7. The main issues are the effect of the development on the character and appearance of the area, and on the living conditions of neighbouring occupiers with regard to outlook, light and privacy.

Reasons

8. The appeal property is a modest semi-detached house located on a road of similar properties in a predominantly residential area. The totality of extensions, as described above, are extensive. The two-storey side extension has been built along the boundary with the neighbouring property. It has been constructed with a gable and is flush with the front wall of the original house. This extension unbalances the pair of semi-detached houses and has potential to create a terracing effect. I consider that the size, scale and form of the two-storey side extension fails to complement the host property and is an incongruous addition.

9. The rear two-storey extension, combined with the flat roofed dormer extension, has created a three-storey structure that projects beyond the rear wall of the adjoining property and has led to an increase in the overall ridge height. The three-storey structure is very dominant and incongruous. It totally envelopes the original house to the detriment of the host property and is incompatible with the scale and design of the semi-detached houses with hipped roofs that characterise the wider area. The small gap between the extension and the side boundary does not alleviate the harmful impact.
10. I saw that the rear garden faces south-east. Consequently, the rear extensions are likely to cause a loss of sunlight and daylight to the first-floor rear windows and garden of the neighbouring property to the north at No 109. The adjoining house at No 113 lies to the south and levels of sunlight may not be materially impacted by the unauthorised rear extensions. However, due to its size, and the proximity of the three-storey element to the rear windows at No 113, I consider there would be an unacceptable impact on daylight and outlook.
11. The three-storey extension contains two rear windows on the upper floor. The windows allow extensive views into the rear gardens of the properties in the immediate vicinity. While the gardens were not completely private, there would be a loss of privacy as the unauthorised windows enable a greater degree of overlooking than existed previously.
12. The appellant suggests the Council did not raise concerns during previous site inspections. However, there is no evidence of any such discussions. It is also argued that the adjoining neighbour intends to erect a similar extension but, again, there is no evidence of this. In any event, circumstances can change, and in the meantime, I consider the unauthorised development to be harmful.
13. I conclude that the unauthorised development has an adverse impact on the character and appearance of the host dwelling and the wider area and has an adverse impact on the living conditions of neighbouring occupiers with regard to loss of light, outlook and privacy. The development is contrary to Policies SP1 and DM1 of the Core Strategy (2012), saved Policy DC1 of the Unitary Development Plan (1995), which seek to promote high quality design that respects the character of the area and protects residential amenity. As such, the development is contrary to the development plan. The development fails to meet the aims of the National Planning Policy Framework insofar as it seeks to secure a good standard of amenity for existing and future occupiers. The ground (a) appeal fails, therefore.

Conclusion

14. 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.

Formal Decision

15. The appeal is dismissed, and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

D Moore

Inspector