
Appeal Decision

Site visit made on 17 January 2023

by Roy Curnow MA BSc(Hons) CMS MRTPI

An Inspector appointed by the Secretary of State

Decision date: 8th September 2023

Appeal Ref: APP/Y5420/C/21/3290221
44 St Albans Crescent, London N22 5NB

- 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 Mr Ryan Bonder against an enforcement notice issued by the Council of the London Borough of Haringey ('the Notice').
 - The enforcement notice, numbered UNW/2021/00355, was issued on 26 November 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a rear roof extension.
 - The requirements of the notice are: 1. Demolish the rear roof extension in its entirety and return the roofslope to its original form, prior to the unauthorised works; and 2. Remove all resultant debris.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice is varied by: the deletion of 6 months and the substitution of 8 months as the period for compliance.

Subject to the 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.

Reasons

Ground (a)

2. An appeal under Ground (a) is that planning permission ought to be granted for the development that is the subject of the Notice.
3. The main issues in this ground of appeal are the effects of the roof extension on: the character and appearance of the area; and on the living conditions of the occupants of a neighbouring property by reason of overlooking.

Character and appearance

4. 44 St Albans Crescent ('No 44') is a mid-terraced property that has accommodation over three floors. That at the second-floor level is provided through the roof extension that is the subject of this Notice.
5. The roof extension has two elements. One is on the rear slope of the main roof and the other on the property's rear 'outrigger'. Each element rises from very

close to, if not on, those roofs' eaves lines. In order to provide the required internal height, the element on the outrigger is significantly higher, when measured from the eaves line, as the original roof pitch here was less than that of the main roof. A high parapet wall has been built that rises from the ridge line on the outrigger that is shared with the adjacent property. It extends above the flat roof of this element of the extension. All of the roof extension sits below the main roof's ridge line.

6. The extension covers the overwhelming majority of the property's rear roofslopes. Its elements are flat roofed and finished in vertical boarding that has been painted black. That on the main roof has a single window looking down the rear garden, whilst that on the outrigger has a window with the same orientation and another set at 90 degrees looking directly towards what is indicated on the Plan attached to the Notice as 46 St Albans Crescent ('No 46').
7. It is agreed that the extension is not permitted development, by reason of the terms of Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, ('GPDO'). There is disagreement between the parties as to the volume of the extension, and whether it accords with the maximum allowed by Class B.
8. The Appellant makes the point that "an extension of an identical scale and appearance could be constructed under Permitted Development". Given that the extension is not permitted development, for various agreed reasons, this is not the case. I take the point though, that if his calculations are right, a similar extension might be erected.
9. The Council was unable to gain access to the property to measure the volume of the extension, due to a combination of the covid pandemic and the Appellant's daughter's health. For the reasons of his daughter's health, I, too, was unable to enter the property and measure the extension – albeit that this would have been done internally. These were not deliberate attempts to prevent a proper assessment, but I find that it places more emphasis on the Appellant demonstrating that his case is correct.
10. His calculations are based on Drawing No AC02 Version B, by Studio 20, dated 15.10.2020 ('the drawing'). The drawing includes a figure for the total volume of the extension of 36.03 cubic metres. Using that drawing, the Council suggests a volume of 52.75 cubic metres. Thus, one is within the maximum volume allowed by Class B, 40 cubic metres, and the other outside. The Council also cites the volume of a proposal for a similar extension it received relating to another property, 60 St Albans Crescent. This, it says, casts further doubt on the Appellant's calculations. Given that each property in the terrace is likely to differ to a degree in size and design, I give this evidence little weight.
11. From my assessment of the information on the drawing, the Appellant's conclusion that the volume of the extension is less than 40 cubic metres is wrong. I find that the figure is that given by the Council. This is significantly above the 40 cubic metres figure in the GPDO, and consequently reduces the weight that I can give to what the Appellant describes as a fallback position.
12. Notwithstanding that it is below the ridge line of the main roof, the extension is nonetheless overly-large and has a massing that is at odds with this terraced property, in particular that element on the outrigger. The extension that has been built appears as an overwhelming feature on its rear elevation.

13. The Appellant states that the Haringey supplementary planning document Sustainable Design and Construction, 2013 ('SPD') describes timber as a relatively low impact material that might be appropriate to be used, especially when sourced sustainably. Although I was not given a copy of the SPD, the point was not countered by the Council so I take it to be the case. However, its use here draws the eye to the harmful roof extension. Its use is another reason why the extension could not accord with the Class B, as that class requires materials to match those on the roof. I have taken account of the use of timber elsewhere on the property and in other developments, which the Appellant refers to, but in my assessment of what has been built at No 44 I find it to be inappropriate.
14. Although I did not see the extensions at 66 Cranebrook Road, 17 Garthorne Lane or 648 Lordship Lane, the Appellant provided oblique satellite images of these in his statement of case. They demonstrate variety in the form of roof extensions, but there are marked differences with that before me. Not the least of these is that only one has an element on the outrigger, and that covers far less of it than the case before me. Those photographs do not lead me to reach a different conclusion on the effect this has on the host dwelling and the character and appearance of the area.
15. This is, for reasons based on the evidence before me and that of my site visit, that the roof extension that has been built at the rear of No 44 causes harm to the character and appearance of the property. As such, it is not high quality architecture nor a high standard of design of the form required by Policy D3 of the London Plan, March 2021 ('LP'), Policy SP11 of the Haringey Local Plan 2017 ('HLP') and Policy DM1 of the Haringey Development Management Development Plan Document, adopted July 2017 ('DPD'). Although LP Policy D3 is referred to in the Notice, this sets out requirements for the city's Boroughs, rather than for those undertaking developments.

Living conditions

16. Due to the terraced nature of properties in this part of St Albans Crescent, there is always going to be a degree of overlooking and subsequent reduced privacy to their occupants. That would be understood by anyone living in or moving to the area, and considered part of everyday life. Given the relatively high density of the built environment in this area, changes to properties here, even relatively minor ones, can therefore have a significant effect on the living conditions of the occupants of neighbouring properties.
17. Although I did not enter the property, I had no doubt that the side window in the element on the outrigger provided a clear view into the rear garden of No 46. The rear gardens are not wide, so the window is close to that property. Furthermore, it allows a view to that part of the garden closest to the house at No 46, which would be the area giving its occupants the most privacy. There are two small windows at first floor level in the side wall of the outrigger but, given their size and position they have little effect on the privacy of the occupants of No 46.
18. The side window in the roof extension fundamentally changes the relationship between Nos 44 and 46. It results in a degree of overlooking and subsequent loss of privacy that causes significant harm to the living conditions of the occupants of No 46.

19. The development is, therefore, contrary to the terms of LP Policy D3 that amongst other things requires developments to deliver appropriate levels of privacy. This requirement is reflected in DPD Policy DM1 which requires developments to ensure a high standard of privacy for neighbours. It does not represent high quality design, as required by HLP Policy SP11. LP Policy D3, is cited on this issue, too. My comments, above, on this are again relevant.

Ground (f)

20. An appeal under ground (f) is that that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
21. In this instance, it is clear that the purpose of the Notice is to remedy the breach, rather than remedy the injury to amenity as suggested by the Appellant. However, given that a Ground (a) appeal has been made I am able to assess alternative schemes.
22. The Appellant's case, here, is based on the premise that the extension as built is close to the permitted development rights in Class B. I have found that this is not the case. He suggests the adjustment or modification of the extension to accord with the terms of the GPDO, rather than its removal. Alternatively, he puts forward that the Notice might more reasonably require the window facing No 46 to be glazed in obscured glass and the extension's cladding changed.
23. In respect of the former, the Appellant has not provided any drawings to show how this would be achieved. Whilst it might be possible to achieve this, it would be wrong for me to grant planning permission for that development without drawings on which to base that decision.
24. On the latter point, this would overcome the living condition issue, but not the size of the extension.
25. For the reasons given, the Ground (f) case fails.

Ground (g)

26. This ground of appeal is that insufficient time has been given for compliance with the requirements of the Notice.
27. The Appellant's case is that 6 months is insufficient to comply with the requirements, as they require the restructuring of the dwelling which would be time-consuming and costly, and this is a family space in constant use. On this latter point, I am told that the extension is occupied by the Appellant's daughter who at the time of my writing would be at least 16. I am told that her condition would not take easily to the upheaval that would result from compliance with the Notice. He says that the Council did not take this into account when they drafted the Notice, and he asks for the period to be extended to 12 months.
28. In response, the Council say that the period for compliance allows adequate time to submit an application for a policy compliant extension, receive planning permission for it and build it.

29. Although the cost of the works is not a matter that has a bearing whether sufficient time has been given to comply with a Notice, I do understand how this is a factor in the Appellant's thinking. I note the Council's optimism that a way forward can be found, but I find that this period would be insufficient and a short extension of time would be necessary. I will extend the period of compliance to 8 months, as this is a more realistic period in which to follow the Council's proposed way forward or to comply with the Notice.

30. To this extent, the Ground(g) appeal succeeds.

Conclusion

31. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation.

Roy Curnow

Inspector