



Appeal Decisions

Site visit made on 11 September 2023

by H Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2023

Appeal A Ref: APP/A5270/C/22/3304012

Appeal B Ref: APP/A5270/C/22/3304013

16 Woodland Rise, Greenford, Middlesex, UB6 0RD

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended.
- The appeals are made by Mr Ashish Chawla (Appeal A) and Carishma Sehgal (Appeal B) against an enforcement notice issued by the London Borough of Ealing.
- The notice was issued on 27 June 2022.
- The breach of planning control as alleged in the notice is without planning permission the erection of a first floor rear extension, alterations to the front elevation windows and garage and construction of a porch.
- The requirements of the notice are to:
 - i. Demolish the first floor rear extension;
 - ii. Demolish the front porch and reinstate the door and windows to match the size, design, proportions and materials as the those in place before the unauthorised works took place;
 - iii. Remove the window within the front elevation of the garage and reinstate the garage door and reduce the parapet wall above the garage to its former height;
 - iv. Remove the ground floor front bay window and reinstate the windows to match the size, design, proportions and materials as the those in place before the unauthorised works took place;
 - v. Reinstall the tiling between the top of the bay window and the first floor window to match the size, design and colour of the tiles in place before the unauthorised works took place; and
 - vi. Remove all resulting debris, rubbish and materials from the land.
- The period for compliance with the requirements is 3 months from the date the notice takes effect.
- 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.

Summary of decision: The appeal succeeds in part and permission for that part is granted, but otherwise the appeal fails and the enforcement notice is upheld, in the terms set out below in the Formal Decision.

Preliminary Matters

1. I have a duty to get the notice in order and s176(1) of the Act grants powers to (a) correct any defect, error or misdescription in the enforcement notice, and/or (b) vary the terms of the notice, provided it would not result in injustice to the appellant or the Council. The wording of the notice is clear, but I have made minor corrections which improve readability and clarity.

2. The notice requirements include reinstating the porch door and windows and the ground floor bay window to match the size, design, proportions and materials in place before the unauthorised works took place. The original material seems to have been UPVC. Other materials would be acceptable provided the size, design and proportions resulted in an appearance which was not materially different to the appearance before the unauthorised works took place. The requirements of the notice have been varied accordingly.
3. These corrections and variations can be made without causing injustice and are set out in the formal decision below.

The appeal on ground (a) and the deemed planning application

4. The ground of appeal is that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The terms of the deemed planning application are derived from the allegation set out in the notice. Hence, planning permission is sought for the erection of a first floor rear extension, alterations to the front elevation windows and garage and construction of a porch.
5. It is clear from the requirements of the notice that in terms of the bay window, the notice applies only to the ground floor, hence the deemed planning application does not relate to the first floor bay window. Any other elements which may have been constructed or which have been suggested as possible future works are not the subject of the deemed planning application. I have determined the ground (a) appeals on the basis of the deemed application rather than by comparison to any other application.

Main issue

6. The main issue is the effect of the development subject to the notice on the character and appearance of the host dwelling and the surrounding area.

Reasons

7. The appeal site is a two storey detached dwelling in a residential street. During my site visit I viewed other dwellings indicated by an appellant and note that many of the dwellings along Woodland Rise, and adjoining Oakwood Crescent have been extended. A range of side and rear extensions are visible from the street along with a variety of modest porches. However, these alterations have been constructed in brick and tile which respects the appearance of the original dwellings. Even where alterations and extensions have been made, the dwellings along Woodland Rise and Oakwood Crescent have retained a distinctive band of hung tiles between the ground and first floor windows of the front bay. This uniform height band of hung tiles defines and enhances the proportions of the front elevations and provides a strong and visually pleasing design feature which unifies the streetscene.
8. The development to which the deemed planning application relates consists of a first floor rear extension, alterations to the front elevation windows and garage and construction of a porch. The works to the front and the rear have different effects on character and appearance, so I have considered them separately.

First floor rear extension

9. The extension is rendered and finished with a pitched roof. It is a considerable width and depth and has a complex roof form with the eaves being modestly higher than the eaves of the original dwelling. Notwithstanding this, the extension is set off from the boundaries and has been constructed above a pre-existing single storey extension, so does not increase the dwelling footprint.
10. The first floor rear extension projects modestly beyond the original side elevation and is visible from the street, through the gap between dwellings, but this is not an uncommon element within the streetscene. The extension is set well back from the street, so even with the higher eaves and rendered finish, the impact on the streetscene and the building pattern is not significant. I also noted during my site visit that there are dwellings nearby with two storey side extensions that have eaves higher than the eaves of the original dwelling.
11. There is an area of public woodland directly to the rear of the site. An informal unsurfaced track runs through the woodland, parallel to the rear boundary, but set well away from it. The track enables glimpses of the rear extension between trees, but it is generally well screened from public view. The rear extension is visible from neighbouring gardens, but there are several large rear dormers in the immediate area so roof extensions are part of the established building pattern. The extension does not project significantly further back than upper floor elevations of the dwellings either side.
12. The scale of the first floor rear extension is considerable. However, given the size of the dwelling and the plot within which it sits, the extension does not excessively dominate the rear elevation or disrupt the pattern of development in the area. Overall, given its limited visibility from public viewpoints, the first floor rear extension does not have a significantly detrimental impact on the character and appearance of the host dwelling or the surrounding area.
13. The Ealing Interim Guidance SPD4: Residential Extensions (SPD) sets out that extensions should be subordinate to the original dwelling with rooflines set down. This is guidance only, so does not have the status of Policy, as well as being out of date. I therefore afford only limited weight to any lack of compliance with its recommendations. As set out above, overall, I find the impact of the rear extension on character and appearance to be acceptable.

Alterations to front elevation windows and garage and construction of a porch

14. At the time of my site visit, the original first floor bay window remained, but the ground floor bay window had been replaced with a new window. The new ground floor window is significantly different in height and glazing proportions to the window it replaced and does not have a similar appearance. The increased window height reduces the gap between the top of the ground floor window and the bottom of the first floor window.
15. As set out above, the distinctive tile hung band and uniform spacing between the ground and first floor bay windows is a positive and unifying feature of the street. The loss of this at the appeal dwelling is significantly detrimental to both the dwelling itself and the wider streetscene. Replacing the first floor window to match the new ground floor window would exacerbate rather than overcome this issue.

16. The steel panelling which has replaced the hung tile band between the ground and first floor bay windows may be a similar colour, but that is where any similarity ends. Modern materials and contemporary design can, in the right circumstances (such as the example provided by the appellant), complement more traditional dwellings. However, in this case, the steel has an industrial and unfinished appearance which is entirely out of keeping with the design and detailing of the host dwelling and the domestic streetscene and serves to emphasise the loss of the unifying hung tile band. The detrimental impact of the steel panelling is exacerbated by its use in the porch.
17. The location and shape of the new window in what was the garage, along with the oversized door in the new porch, unbalances the proportions of the frontage. This would not be overcome by tidying up the brickwork and returning the parapet to its original height.
18. Taken together, the alterations to the front elevation windows and garage and construction of a porch, with the use of steel panelling, results in the host dwelling having an incongruous and unsympathetic frontage. This has a significantly detrimental impact on the character and appearance of the host dwelling and the streetscene in the surrounding area.

Conclusion on ground (a) and the deemed planning application

19. I conclude that the first floor rear extension does not cause unacceptable harm to the character and appearance of the host dwelling or the surrounding area. Consequently, this part of the development complies with Policies 7.4 and 7B of the Ealing Development Management Development Plan (Adopted 2013) (DP); Policy D3 of the London Plan (2021) (LP); and section 12 of the National Planning Policy Framework (the Framework). Together these policies seek to ensure good design which complements local characteristics.
20. However, I conclude that the alterations to the front elevation windows and garage and construction of a porch, cause unacceptable harm to the character and appearance of the host dwelling and the surrounding area. Consequently, these elements of the development do not comply with Policies 7.4 and 7B of the DP; Policy D3 of the LP; the SPD; and section 12 of the Framework. The works fail to comply with elements of these policies which require development to be of a high quality design that positively responds to local distinctiveness including the street sequence; to complement style and character; and to pay attention to detail including materials.
21. The works to the front and rear are physically and functionally severable, so I consider a split decision to be appropriate in this case. Therefore, I intend to allow the ground (a) appeal and grant planning permission in so far as it relates to the first floor rear extension, but not in so far as it relates to the front elevation windows and garage and construction of a porch.

Split decision and the effect of Section 180 of the Act

22. Although a split decision will be issued, the notice will not be amended regarding requirement i) which is to demolish the first floor rear extension. S180(1) of the Act provides that where, after the service of an enforcement notice, planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as it is inconsistent with that permission.

23. In this case, the appeal on ground (a) will be allowed in part. If the requirements of the notice were varied to exclude that part of the development for which planning permission is being granted, then this could give rise to two inconsistent permissions, one being granted under S173(11) of the Act as a variation of cutting down the requirements. To avoid this possibility the requirements of the notice will not be varied in this way and reliance will be placed on S180 of the Act to mitigate the effect of the notice in so far as it is inconsistent with the permission. Thus, the notice will cease to have effect with regard to demolishing the first floor rear extension.

The appeal on ground (g)

24. The appeal on this ground is that any time period specified in the notice falls short of what should reasonably be allowed. Planning permission will be granted for the first floor rear extension. As such, ground (g) does not fall to be considered in relation to the rear extension.
25. The works to the front of the dwelling, to comply with requirements ii) to vi) of the notice, are relatively substantial and the occupants may need to move out of the dwelling while work is undertaken. To enable time for arrangements to be made and materials to be sourced, a period of 3 months does not seem reasonable. However, it is desirable to address the breach of planning control without undue delay, so the 12 months suggested by the appellant is excessive.
26. I conclude that the period for compliance with the notice falls short of what is reasonable. Given that the rear extension does not have to be removed, it would be reasonable to extend the compliance period to 6 months and the appeal on ground (g) succeeds. I shall uphold the notice but exercise my powers under s176(1) of the Act to vary the notice, as set out below in the formal decision.

Overall Conclusion

27. For the reasons given above, I conclude that the appeal on ground (a) should succeed in part only, and I will grant planning permission for the first floor rear extension. Otherwise, I shall uphold the notice and refuse to grant planning permission for alterations to the front elevation windows and garage and construction of a porch. By virtue of s180 of the Act, the requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant.
28. However, I conclude that the period for compliance with the notice falls short of what is reasonable. Therefore, I shall vary the period for compliance in the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

Formal Decision

29. The appeal on ground (a) is allowed, insofar as it relates to the first floor rear extension, 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 first floor rear extension at 16 Woodland Rise, Greenford, Middlesex UB6 0RD.

30. It is directed that the enforcement notice is corrected as follows:

- In section 5, requirement ii), delete the words 'materials as the' and substitute the words 'appearance of';
- In section 5, requirement iv), delete the words 'materials as the' and substitute the words 'appearance of';
- In section 5, requirement v), delete the words 'top of the bay window and the first floor window' and substitute the words 'top of the reinstated ground floor bay window and the bottom of the first floor bay window'

31. It is also directed that the enforcement notice is varied as follows:

- In section 5, where it sets out the time for compliance, delete the words '3 months' and substitute the words '6 months'.

32. Subject to the above corrections and variation, the enforcement notice is upheld, insofar as it relates to alterations to the front elevation windows and garage and construction of a porch, and planning permission is refused on the application deemed to have been made under s177(5) of the 1990 Act as amended, for the alterations to the front elevation windows and garage and construction of a porch at 16 Woodland Rise, Greenford, Middlesex UB6 0RD.

H Davies

INSPECTOR