



Appeal Decision

Site visit made on 26 June 2023

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th September 2023

Appeal Ref: APP/M5450/C/22/3304308

Land at 110 Streatfield Road, Harrow HA3 9BT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
- The appeal is made by Ms Roohi Byatt against an enforcement notice issued by the Council of the London Borough of Harrow.
- The notice, numbered ENF/0376/19/P, is dated July 2022.
- The breach of planning control as alleged in the notice is without planning permission, the construction of a single-storey rear extension ("Unauthorised Development").
- The requirements of the notice are to:
 - a) Demolish the Unauthorised Development or alter the Unauthorised Development to accord with the approved plans for planning application reference P/1007/11;
 - b) Make good any damage caused to the building as a result of the above actions; and
 - c) Remove from the Land all materials, rubbish, and debris resulting from compliance with the above requirements, and restore the Land to its condition prior to the breach taking place.
- The period for compliance with the requirements is six (6) months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (c) 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.

Decision

1. 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 construction of a single storey rear extension at 110 Streatfield Road, Harrow HA3 9BT, as shown on the plan attached to the notice.

Preliminary Matters

2. A Mr Shen Harji is named as the appellant on the Appeal Form. However, during the course of the appeal proceedings it was clarified that Ms Roohi Byatt is the person making the appeal and Mr Harji is acting as her agent.
3. I conducted an accompanied site visit on 26 June 2023 with both main parties present. The occupier of the neighbouring property at 108 Streatfield Road was also present. With the agreement of all parties, I was able to gain access to the rear garden area of No. 108 to view the development from this neighbouring property and assess its effects. Both the appellant and the Council's representative accompanied me throughout the entirety of the visit.
4. The enforcement notice is simply dated 'July 2022'. Nevertheless, I am satisfied that it meets the requirements prescribed by sections 173(8) and

173(9) of the Act, in that it specifies the date on which it is to take effect and it specifies a time period for compliance with the steps required to remedy the breach. I also note that the enforcement notice was issued with a covering letter dated 19 July 2022.

The appeal on ground (c)

5. 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, those matters (if they occurred) do not constitute a breach of planning control. This is a 'legal' ground of appeal, in which the burden of proof is on the appellant to demonstrate, on the balance of probability, that the matters alleged in the notice do not amount to a breach of planning control.
6. The appellant asserts that the appeal property is not a flat but is in fact a semi-detached house, and on that basis they consider the works to fall under permitted development. However, they acknowledge that the upstairs of the property is rented, and that they are in the process of converting the property back to one dwelling. Indeed, during my visit I observed that access to the first floor is restricted by a locked door which appears to subdivide the property into two units of accommodation; a ground floor and first floor flat. The occupier of the ground floor does not have access to the first floor accommodation. I also note that the appellant has referred to the appeal property as 'Flat 1' on the appeal form and in their supporting evidence.
7. The appellant's assertions in this regard are contradictory and they offer no evidence to suggest that the property was anything other than two flats at the time that the alleged unauthorised development took place. In this regard, I note that flats do not benefit from the permitted development rights set out in Class A, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), which specifically relate to the enlargement, improvement or other alteration of a dwelling house. Even if I were to accept that the property was a dwellinghouse, I have not been provided with any evidence to demonstrate that the development would meet the tolerances of any permitted development rights set out in the GPDO.
8. Consequently, the appellant has failed to demonstrate that the matters stated in the notice do not constitute a breach of planning control. Therefore, the ground (c) appeal must fail.

The appeal on ground (a)

9. The appeal on ground (a) is that planning permission ought to be granted for the matters stated in the notice. In doing so, they seek to retain the single storey rear extension as constructed in its current form.
10. The main issues are the effect of the development on:
 - The character and appearance of the host property and the surrounding area; and,
 - The living conditions of neighbouring residents, with particular regard to outlook and light.

Character and appearance

11. The appeal property comprises a two-storey, semi-detached dwelling that has been converted into flats. The ground floor flat has an existing single storey extension that projects approximately 3 metres from the rear elevation and spans the entire width of the property. The surrounding area is characterised by properties of a similar scale and design and with a variety of rear extensions of varying sizes. The rear garden areas are generally quite spacious.
12. The Council's Residential Design Guide Supplementary Planning Document 2010 (the SPD) advises that rear extensions should be designed to respect the character and scale of the original house and garden. Generally, the guidance requires extensions to have a sense of proportion and balance to ensure that they do not dominate the original building or surrounding streetscape.
13. The unauthorised development extends the existing single storey rear extension by a further 3 metres, resulting in a total rearward extension of approximately 6 metres from the original rear elevation of the property. It has a flat roof at a height of about 2.85 metres and is set back from the shared boundary with No. 108 by approximately 1 metre.
14. There are limited views of the development, which are confined to those experienced from neighbouring rear gardens and the rear facing windows of the first floor flat. There are no wider public views, and it is only partially visible in glimpsed views from the street, limiting its overall visual presence.
15. Coupled with the existing single storey rear extension the development has a sizable rearward projection and footprint. Nevertheless, it is of a subservient scale and overall massing when viewed against the host two storey property, and it does not overwhelm its spacious rear garden. Therefore, the extension appears as a proportionate addition to the host property and has no discernible effect on the character and appearance of the surrounding area.
16. For these reasons, I conclude that the development does not have an adverse effect on the character and appearance of the host property and the surrounding area. Therefore, the development is compliant with Policy CS1.B of the Harrow Core Strategy 2012, Policy DM1 of the Harrow Council Development Management Policies 2013, Policy D3 of the London Plan 2021, and the guidance set out in the SPD. Together these policies and guidance seek to achieve a high standard of design that positively responds to the character of the area and extensions that respect their host building.

Living conditions of neighbouring residents

17. For extensions with a depth greater than the 3 metres allowed by permitted development, the SPD advises that such development may be allowed where the extension would be sited away from an adjacent side boundary.
18. In this case the extension is set back from the side boundary with No. 108 by approximately 1 metre, significantly reducing its massing and visual presence along the shared boundary. Its flat roof form also reduces its overall massing. Therefore, despite its lengthy rearward projection, the development does not dominate the outlook from the rear facing ground floor windows, including the patio windows that serve a living/dining room, or from within the garden area at No. 108. Consequently, it does not have an adverse effect on the outlook

experienced from this neighbouring property and so does not amount to an overly assertive or overbearing form of development.

19. The development is sited to the east of No. 108 and therefore given the trajectory of the sun in the sky, rising in the east and falling in the west, it does result in some limited overshadowing and loss of direct sunlight to the rear facing patio doors and part of the garden area of this neighbouring property. However, this would be limited to the early hours of the morning until midday. My site visit was carried out shortly after midday during late June and I observed no significant loss of light or overshadowing as a result of the development. Any overshadowing as a result of the development is likely to be worse during the winter months when the sun is on its lowest trajectory in the sky. However, given the positioning of the extension in relation to the boundary, and its overall scale, this is unlikely to amount to a significant adverse effect.
20. Overall, in my view and having considered the proximity of the development to the shared boundary with No. 108, this would not result in an unacceptable level of overshadowing or loss of direct sunlight for these neighbouring residents. Therefore, the proposal would maintain an acceptable standard of living conditions for these neighbouring occupiers.
21. Bringing all these points together, I find that the development does not significantly harm the living conditions of neighbouring residents, with particular regard to outlook and light. Therefore, there is no conflict with Policy DM1 of the Harrow Council Development Management Policies 2013, Policy D3 of the London Plan 2021, or the guidance set out in the SPD, which together seek to ensure that development proposals have regard to any impact on neighbouring occupiers, delivering adequate levels of light and outlook.

Other Matters

22. To support its case, the Council has referred me to an appeal¹ that was previously dismissed for a single storey rear extension at this site. However, this was for a larger extension that would have spanned the full width of the rear elevation of the property. It does not therefore represent a direct comparison to the scheme before me. As a result, I have given this very little weight, and in any event, I have considered the appeal on its own merits and on the evidence before me.

Conclusion

23. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice.

J M Tweddle

INSPECTOR

¹ Appeal Ref. APP/M5450/W/17/3169570