

Appeal Decision

Site visit made on 3 October 2023

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date: 7th November 2023

Appeal Ref: APP/R5510/C/22/3305760

8 Dawlish Drive, Ruislip HA4 9SD

- 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 Mrs Jacqueline Issa against an enforcement notice issued by the Council of the London Borough of Hillingdon.
 - The enforcement notice, numbered HS/ENF/020563, was issued on 2 August 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of part two storey, part single storey side and rear extensions and raised patio to rear of dwellinghouse.
 - The requirements of the notice are:
 - A
 - (i) Demolish and remove the part two storey, part single storey side and rear extensions. (ii) Demolish and remove the raised rear patio extension from the rear of the dwellinghouse. (iii) Remove from the land all debris, items, building materials resulting from compliance with points (i) to (ii) above.
 - Or;
 - B
 - (iv) Alter and implement the development to accord with the proposed plan numbers 160/PP/001C and 160/PP/002C approved under planning permission reference 3397/APP/2021/309 dated 17/03/21. (v) Demolish and remove the raised rear patio extension from the rear of the dwellinghouse. (vi) Remove from the land all debris, items, building materials resulting from compliance with points (iv) to (v) above.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) (f) of the Town and Country Planning Act 1990 as amended. Since an appeal on ground (a) has been made the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
-

Decision

1. 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.

Ground (a) and the deemed planning application (DPA)

Background

2. Planning permission was granted by the Council on 17 March 2021 (3397/APP/2021/309) for part two storey, part single storey side/rear extensions ('the approved development'). Extension works were undertaken that were not in accordance with the consent, and a raised patio was also constructed. On 17 January 2022 the Council refused a retrospective 'as-built' application (3397/APP/2021/4105, 'the refused retrospective application'). The notice targets the same development ('the unauthorised development').

Main Issues

3. The main issues are:

- the effect of the appeal extensions on the character and appearance on the terrace, streetscene and surrounding area;
- the effect of the raised patio on the living conditions of the neighbouring occupiers at 6 Dawlish Drive (No 6) and 10 Dawlish Drive (No 10), particularly as regards overlooking; and
- the effect of the rear extension on the living conditions of the neighbouring occupier at No 10 particularly as regards outlook, overshadowing and loss of light.

Reasons

Character and appearance

4. Amongst other changes, the unauthorised development significantly differs from the approved development in terms of the overall scale and bulk of the rear extension. At first floor level, it is both deeper (in line with the ground floor) and wider (by more than a metre) than approved. The consequence is that the extension fails to appear as a subordinate addition to the original dwelling. Indeed, its width is comparable to the width of the original dwelling - which has now been subsumed and overwhelmed by the disproportionate extent of the appeal extensions in total. This causes a visually jarring effect, with the dominant development appearing alien and incongruous within its sub-urban setting. The harmful visual impact is further re-enforced by the uncharacteristic render finish when juxtaposed with neighbouring properties.
5. For these reasons, the appeal development causes significant harm to the character and appearance of the terrace, streetscene and surrounding area. As such, it is in conflict with Policy BE1 of the Hillingdon Local Plan: Part 1 Strategic Policies (2012) (LP1) and Policies DMHB 11, DMHB 12 and DMHD 1 of the Hillingdon Local Plan: Part 2 Development Management Policies (2020) (LP2) which together seek to ensure that alterations and extensions to residential dwellings are well-designed and protect character and appearance.

Overlooking

6. A considerable raised patio has been constructed to the rear of the property, which spans almost the whole width of the unlawfully extended house and for some distance rearwards before being stepped down into the garden. Its significantly elevated height of more than half a metre permits close and direct views over boundary treatments towards the rear windows and outdoor amenity spaces of Nos 6 and 10.
7. This unacceptable degree of overlooking causes adverse impacts on the privacy of the occupiers of those dwellings, and thereby significant harm to their living conditions. The harm is not ameliorated by the presence of a similar patio at No 10. Further, while I note the appellant's comments on the appeal form, higher fences are likely to contribute to a sense of even greater over-development with resultant harm to character and appearance.

8. As such, the appeal development is in conflict with Policy BE1 of the LP1 and Policies DMHB 11 and DMHD 1 of the LP2 which together seek to protect living conditions.

Outlook, Overshadowing and Loss of Light

9. The side wall of the first-floor rear extension directly faces a side window on the first floor of No 10 at rather close proximity. This is a materially different relationship than with the approved development, as the side wall of the significantly larger extension is 1.1m closer to the neighbouring window and the extension is not stepped-back behind the line of the ground floor. The result is a significantly reduced outlook for the occupiers of No 10, with the side wall of the first-floor development creating an unacceptable and oppressive sense of enclosure.
10. Accordingly, the appeal development causes significant harm to the living conditions of the occupiers of No 10 as regards outlook. As such, it is in conflict with Policies DMHB 11 and DMHD 1 of the LP2 which together seek to protect living conditions.
11. I accept the contents of the professional "Daylight & Sunlight Report"¹ obtained by the appellant which concludes (using British Research Establishment methodology) that the unauthorised development does not result in any material additional impacts in these respects over the approved development. And I agree with the Council² that the approved development would not result in harm on these matters.

Conclusion on ground (a) and the DPA

12. The appeal development does not accord with the development plan as a whole, and there are no other considerations which outweigh this finding. Accordingly, I will not grant planning permission and ground (a) fails.

Ground (f)

13. For an appeal to succeed on this ground, I must be satisfied that the requirements of the notice are excessive in achieving its purpose. It is clear from the way the notice is drafted that its purpose is to remedy the breach of planning control by restoring the land to its condition before the breach took place (compliance option A) or by making the development comply with approved drawings of the consented scheme (compliance option B). These requirements are not excessive. Even were the purpose of the notice to remedy injury to amenity, there are no lesser steps that would achieve that purpose. Ground (f) therefore does not succeed.

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.

Andrew Walker

INSPECTOR

¹ 4 November 2021; Delva Patman Redler Chartered Surveyors (Ref LT/21635)

² Officer Report on 3397/APP/2021/309