



Appeal Decisions

Site visit made on 14 November 2023

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2023

Appeal A Ref: APP/M5450/C/22/3302840 &

Appeal B Ref: APP/M5450/C/22/3302841

20 Whitby Road, Harrow HA2 8LH

- 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 Miss Tricia Barnes (Appeal A) and Mr Timothy Green (Appeal B) against an enforcement notice issued by the Council of the London Borough of Harrow.
 - The enforcement notice was issued on 13 June 2022.
 - The breach of planning control as alleged in the notice is: The unauthorised installation of solar panels that project over the main ridge of the dwelling situated on the land ("unauthorised solar panels").
 - The requirements of the notice are:
 - 1) Remove all Solar Panels that protrude higher than the main ridge of the existing dwelling.
 - 2) Make good any damage caused to the building as a result of the above step and ensure that all materials used shall match those used in the existing building.
 - 3) Remove from the Land all materials and debris arising from compliance with the aforementioned requirements of the notice.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) 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.
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Decisions

1. The appeals are dismissed, and 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.

Procedural Matters

2. Appeal was originally lodged on grounds (a), (d) and (f). However, ground (d) has since been withdrawn. As such the appeal will proceed on grounds (a) and (f) only,
3. For Appeal A, the fee was paid on the ground (a) application, and therefore that appeal is proceeding on grounds: (a) and (f). However, for Appeal B, the fee was not paid, and therefore this appeal will proceed on ground (f) only.

Appeal A on Ground (a) and the Deemed Planning Application

Main Issue

4. The main issue is the effect of the development on the character and appearance of the host building and area.

Reasons

Character and appearance

5. The appeal site is a two-storey terraced property situated in a residential area characterised predominantly by similar terraced and semi-detached properties. The land rises towards Kingsley Road, and as a result the ridgelines of properties also step up in height towards Kingsley Road. This increase in height occurs in small groups of terraced properties or pairs of houses, such that the area exhibits a degree of consistency in terms of overall building heights and pattern of development.
6. The Harrow Supplementary Planning Document Residential Design Guide, 2010 (Design SPD) highlights that "the roof form of a house is a significant part of the character of an area. Alterations may significantly alter the appearance of a house and their effect on the roof form needs careful consideration. Roof alterations and dormer windows should complement the original street character and not dominate buildings or impair their proportions or character."
7. I accept that the solar panels are positioned at a similar angle to the existing front roof slope and are of a colour which is similar to the existing roof material. Nevertheless, the solar panels protrudes well above the main ridgeline of the appeal property and both neighbouring properties and is at odds with the prevailing character of the area. This results in an unduly dominant and incongruous feature which is clearly visible from various public and private vantage points along Whitby Road.
8. I have had regard to the appellant's statement which highlights the support from national and local planning policies for renewable energy technologies to reduce carbon emissions. I commend the appellant's enthusiasm and commitment to implementing these environmental measures. Nevertheless, there is little before me to demonstrate that the current poor siting and position of the panels is the only means by which these aims can be achieved.
9. I therefore conclude that the development has a harmful effect upon the character and appearance of the host building and area generally. The development is therefore contrary to Core Policy CS1 of the Harrow Core Strategy (2012), Policy DM1 of the Harrow Development Management Policies Local Plan (2013), Policy D4 of the London Plan (2021), and the Design SPD, and the Development Plan as a whole. Amongst other things, these policies seek to deliver a high standard of design, layout, and state that proposals that would harm the character of suburban areas and garden development will be resisted.
10. The development also conflicts with the National Planning Policy Framework, 2023 (the Framework) which seeks to ensure that developments are visually attractive as a result of good architecture, layout and are sympathetic to local character and history, including the surrounding built environment.

Alternative scheme

11. Under the appeal on ground (f) appeal, the appellant states that they are open to discussions about lowering the panels or relocating them further back. The ground (a) appeal is limited to considering whether or not planning permission should be granted for the whole or part of the development enforced against. However, there are no plans before me to consider this alternative scheme, and therefore it is unclear how far set back or lower the appellant is proposing to position the solar panels. In the absence of any precise drawings, I am unable to consider this revised scheme further. Indeed, it is open to the appellant to apply for planning permission for this revised scheme if they so wish.

Conclusion on Ground (a) and the Deemed Planning Application

12. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. I have found conflict with the development plan as a whole. None of the other matters raised by the appellant, including their lack of awareness that planning permission would be required for this development outweighs the harm identified. Therefore, there are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.
13. For the reasons given and with regard to all other matters raised, I conclude that the appeal on ground (a) should fail, and the deemed planning application should be refused.

The Appeals on Ground (f)

14. The appeals on this ground is "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 (i.e., the matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".
15. The enforcement notice requires the removal of the solar panels above the ridgeline of the property and therefore, the purpose of the notice is to remedy the breach of planning control rather than only remedy any injury to amenity.
16. The appellant states that the development could be re-located or lowered in height so that they would be less visible. However, as outlined above no drawings have been submitted illustrating this revised scheme and so I am unable to determine what the proposal would look like, or whether it would form part of the development alleged. Indeed, it is open to the appellant to submit a planning application to the Council for this revised scheme if they so wish.
17. The appellant also states that the removal of the panels would be detrimental to their efforts of reducing their carbon footprints and energy usage. However, I have already considered this under the ground (a) appeal and have found that these environmental benefits do not outweigh the harm to the character and appearance of the area. The notice has been issued to remedy the breach of planning control. That would not be achieved by the steps outlined by the

appellant, as it would not remedy the breach of planning control and planning permission would still be required.

18. It is not therefore possible to vary the notice in the ways suggested by the appellant whilst achieving the purpose of the notice. There are no lesser steps drawn to my attention or any obvious alternatives that would remedy the breach of planning control which is the purpose of the notice.

19. On this basis, the Ground (f) appeals fails.

Conclusions

20. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

R Satheesan

INSPECTOR