



Appeal Decision

Site visit made on 10 October 2023

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05th December 2023

Appeal Ref: APP/F5540/C/22/3302533

51 Grove Crescent, Feltham, TW13 6NB

- 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 Act).
 - The appeal is made by Ms Vanita Kanda against an enforcement notice issued by London Borough of Hounslow.
 - The notice was issued on 9 June 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised erection of a first floor rear extension.
 - The requirements of the notice are to:
 - i. Demolish the First Floor Rear Extension.
 - ii. Remove all resultant debris from the Land.
 - 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 (g) of the Act. 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 Act for the development already carried out, namely the erection of a first floor extension at 51 Grove Crescent, Feltham TW13 6NB as shown on the plan attached to the notice.

Appeal on ground (a)

2. The ground of appeal is that planning permission should be granted for the matters alleged in the notice.

Main issues

3. The main issues are the effect of the development on (i) the character and appearance of the surrounding area, (ii) the living conditions of the occupiers of neighbouring properties with regards to outlook, light and privacy, and (iii) the individual that Article 8 rights are engaged.

Reasons

Character and appearance

4. The area surrounding the appeal site is characterised predominantly by residential properties of various styles and designs. The appeal property as well as other properties in the area have been extended and therefore the built form is not uniformed. It is this mixed style of built development which contributes to the character of the area.

5. Due to the design and scale of the extension, it sits uncomfortably and is at odds with the style of the existing building. The extension is not subordinate to the building and the other additions of the property. It is a dominant structure that is not in keeping with the built form of the surrounding area.
6. The extension has a harmful effect on the character and appearance of the surrounding area, and it does not accord with the aims of Policies CC1, CC2 and SC7 of the London Borough of Hounslow Local Plan (LP) which seek to maintain the character of an area and not result in harm to the built environment.
7. The extension is visible from neighbouring properties given its location to the rear of the property, although it is mostly screened from the street scene and public viewpoints by the host property and surrounding buildings. On this basis, I attribute minimal weight to the harm to the character and appearance of the area.

Living conditions

8. The extension is set in from the boundaries of the appeal site and whilst there are neighbouring properties located either side, they are not within close proximity of the extension. The extension has a low ridge and eaves line with a hipped style roof which ensures that the surrounding properties are not adversely affected in terms of outlook and loss of light.
9. There are no windows on the side elevations of the extension and therefore the occupiers of the neighbouring properties do not suffer from a detrimental loss of privacy. There are neighbouring properties to the rear of the site however, given the proximity from the extension to these properties there is no adverse effects in terms of privacy.
10. The extension does not have a harmful effect on the living conditions of the occupiers of neighbouring properties and is not contrary to Policies CC2 and SC7 of the LP which seeks development to not result in harm to the amenities of neighbouring residents.
11. I have had regard to letters of representations from neighbouring occupiers which include matters relating to building regulations and allegations of anti-social behaviour. These matters however are not material planning considerations and do not alter my findings on the main issues.

Human rights

12. Article 8(1) of the Human Rights Act 1998 (HRA) provides that everyone has the right to respect for their private and family life, their home and their correspondence.
13. Article 19 of the UN Convention on the Rights of Persons with Disabilities (UNCRPD) provides that persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement. This provision impinges on the 'home' of disabled persons in terms of Article 8 of the HRA.
14. The extension is a bedroom used by a disabled member of the appellant's family. The appellant's statement of case describes in detail the extent of the family members medical condition and there is related evidence provided including multiple letters from medical experts, disabled parking badge, and a letter from the Department of Work and Pensions. At my site visit I saw that a stair lift was

installed and there had been obvious modifications to the bathroom to aid the less mobile. There is no compelling evidence before me to suggest that the medical condition of the family member is not what has been described to me in the submitted evidence.

15. The property has five bedrooms (including the bedroom in the extension subject of this appeal) spread across the first and second floor and these are occupied by the appellant and their three daughters and one son. Given the size, layout and use of the rooms in the property, there are no obvious alternative arrangements that could be put in place to accommodate the needs of the whole family unit.
16. Due to the circumstances of the family, I consider there is compelling evidence that there is a specific need for the extension. With reference to Article 8 of the HRA and Article 19 of the UNCRPD and that there are no alternative arrangements to allow for the specific requirements of the family, I attribute significant weight to the need for the extension.

Planning Balance

17. I have found that the extension does not accord with Policies CC1, CC2 and SC7 of the LP as it is harmful to the character and appearance of the surrounding area. For the reasons given above I have attributed minimal weight to this harm.
18. The failure of this appeal would affect arrangements for the appellant and specifically the appellant's disabled member of family. This would represent an interference with their rights under Article 8 of the European Convention on Human Rights, as incorporated by the HRA. Given the circumstances, I have attributed significant weight to the need for the extension and this would outweigh the minimal harm to the character and appearance of the surrounding area. Permitting the extension is therefore necessary and proportionate, and it would not result in a violation of the human rights of the appellant or their family.
19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The specific needs for the extension, as described above, is a significant material consideration which justifies a decision other than in accordance with the development plan in this case.

Conditions

20. The Council have requested that a planning condition is imposed restricting further openings in the extension. I do not consider such a condition to be necessary as new openings at first floor level are controlled under the Town and Country Planning (General Permitted Development) (England) Order 2015.

Conclusion

21. For the reasons given above, I conclude that the appeal on ground (a) and the application for deemed planning permission should succeed. On this basis there is no need to consider ground (g).

Chris Baxter

INSPECTOR