



---

# Appeal Decision

Site visit made on 19 February 2024

**by A Walker MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 March 2024**

---

**Appeal Ref: APP/M4320/C/23/3327621**

**5 Hillcrest Road, Crosby, Liverpool L23 9XS**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Adam Ramsey against an enforcement notice issued by The Sefton Metropolitan Borough Council.
- The enforcement notice was issued on 13 July 2023.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey extension to the rear of the dwellinghouse, in the approximate position shown cross-hatched on the attached plan.
- The requirements of the notice are: You must demolish the single storey rear extension and remove all materials arising as a result of the demolition works.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal is allowed, the enforcement notice is quashed, following correction, and planning permission is granted in the terms set out below in the Formal Decision.**

---

## Preliminary Matter

1. The issue date on the enforcement notice (the notice) is 13 July 2023. However, notwithstanding the ground (e) appeal, the notice was served on 6 July 2023. Therefore, the issue date on the notice is clearly incorrect. As there is no statutory requirement to include the date the notice was issued, I will delete the date from the notice. The parties have been given the opportunity to comment on this and have not raised any objection.
2. Since the appeal was submitted, a revised version of the National Planning Policy Framework (the Framework) has been published and this is a material consideration which should be taken into account from the date of its publication. I have therefore determined the appeal in light of the revised Framework. As there is no change in the revised Framework relevant to the appeal, it has not been necessary to seek comments from the parties on the revised version.

## The ground (e) appeal

3. An appeal on ground (e) is whether copies of the notice were served as required by section 172 of the Town and Country Planning Act 1990 Act (the Act). Section 172(2) states '*A copy of an enforcement notice shall be served—(a) on the owner and on the occupier of the land to which it relates; and (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.*'

4. The appellant contends that the notice was not served at the appellant's place of residence at the time and was left with someone who was not authorised to accept service on their behalf.
5. Section 329(1)(b) of the Act states that any notice or other document required or authorised to be served or given under this Act may be served or given...by leaving it at the usual or last known place of abode of that person or, in a case where an address for service has been given by that person, at that address.
6. The Council carried out a land registry search prior to the notice being issued, which showed the appellant as being the owner of the appeal property. However, this does not prove it was their place of abode or an address for service. Nevertheless, the Council confirms the application form for planning application reference DC/2023/00244 had 5 Hillcrest Road as the appellant's address.
7. The appellant contends they did not become aware of the notice until a later date, after it was issued. However, the Council disputes this, stating the appellant was informed via telephone on the morning of 6 July 2023, prior to the copies of the notice being served at 5 Hillcrest Road. The appellant did not advise the Council that there was an alternative address for service. Moreover, the Council also confirm that during the telephone conversation with the appellant later that day they confirmed they had received the copies of the notice. A copy of the notice was also emailed to the appellant on the same day.
8. Given the above, the Council could have done more to confirm the correct address on which to serve the notice. However, the appellant had sufficient opportunity to request it be served at a different address prior to copies of the notice being served. The appellant had used the address of 5 Hillcrest Road on the planning application form as their address and the Council had sent previous correspondence to there. Therefore, on this basis, I consider the Council fulfilled the statutory requirements for the service of the notice.
9. Even if the Council did not correctly serve the notice, section 176(5) of the Act states that 'Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.' The appellant clearly received a copy of the notice to have made this appeal. Consequently, they have not been prejudiced by a copy of the notice not being served at their correct home address.
10. The ground (e) appeal therefore fails.

### **The ground (a) appeal and the deemed planning application**

#### *Main issue*

11. The main issue is the effect of the development on the living conditions of the occupants of 3 Hillcrest Road, with regard to outlook and daylight.

### *Reasons*

12. The appeal property is a two-storey, semi-detached dwelling. The single-storey extension the subject of this appeal is located on the rear elevation of the dwelling. The rear garden boundary treatment with the adjoining property, 3 Hillcrest Road, is a close boarded timber fence with high, evergreen hedging along part of the boundary.
13. The Sefton Council House Extensions Supplementary Planning Document 2023 (SPD) states that the 45 degree guideline will establish whether the single-storey extension will have a significant effect on neighbouring properties, with regard to outlook. If the extension breaks the 45 degree line by more than 3m then the extension will be considered unacceptable unless it can be demonstrated that the proposal will not result in unacceptable harm to residential amenity. Examples of mitigating factors include the width of the window on the neighbouring property (for example large patio doors which span the entire rear elevation).
14. No 3 has French doors with side lights either side in the rear elevation that serve a habitable room, within proximity of the boundary fence. There is no evidence before me of any other windows serving this room. The extension projects approximately 4.7m beyond the ground floor rear elevation of No 3, which itself projects approximately 0.7m beyond the original rear elevation of the appeal property. Taking the 45 degree measurement from these French doors, the extension breaches the guide.
15. The appellant has provided a drawing<sup>1</sup> indicating that approximately 1.6m of the extension would be in breach of the 45 degree guide. However, the drawing indicates the extension projecting approximately 5.4m from the rear elevation of no 3. This does not appear to factor in the rear elevation of No 3 projecting approximately 0.7m from the rear elevation of the appeal property. If it did then it would indicate the breach being reduced by approximately 0.7m, to less than 1m.
16. The examples of mitigating factors for breaching the 45 degree guide in the SPD is not a closed list. Other factors can be considered. The French doors with side lights do not span the entire length of the rear elevation of No 3. Nevertheless, they span a large part of the elevation, providing a significant outlook from the habitable room they serve. The extension would clearly be visible from the room and, due to it rising above the boundary fence and projecting along the boundary, it would reduce the outlook to some extent. However, the size of the fenestration serving the room would ensure the outlook is not reduced to such an extent that it would materially harm the living conditions of the room by creating an undue sense of enclosure, even taking into account the existing outrigger on No 3.
17. Moreover, the extension replaces a conservatory that was set on the boundary as opposed to the extension, which is set back slightly from it. The conservatory did not project out as far as the extension and its flank wall was not as high. However, the set back position of the extension from the boundary and the fact it is only slightly longer in depth overall results in it only having a moderately greater effect on the outlook of No 3.

---

<sup>1</sup> Dwg no. 23-079-120 revision B

18. Overall, although the extension breaches the 45 degree guide, I am satisfied there are mitigating factors that result in it not having an unacceptable harmful effect on the outlook of No 3.
19. With regard to daylight, although the extension will have reduced the amount of daylight serving the habitable room, the French doors and sidelights provide a significant surface area to ensure adequate daylight serves the room. I do not find the loss of daylight to be so significant that it creates a gloomy residential environment that would materially affect the living conditions of its occupants.
20. I find therefore, the extension does not unacceptably harm the living conditions of the occupants of 3 Hillcrest Road, with regard to outlook and daylight. As such, it complies with Policy HC4 of the Sefton Local Plan 2017, which seeks to ensure development causes no significant reduction in the living conditions of the occupiers of neighbouring properties. It also complies with the SPD.

#### *Conditions*

21. I have not been presented with any suggested conditions to impose, in the event I allow the ground (a) appeal. Given the development has already been carried out and I find it causes no unacceptable harm, I am satisfied that conditions are not necessary.

#### *Conclusion on the ground (a) appeal and the deemed planning application*

22. For the reasons given above, having considered the development plan as a whole and all material considerations, the ground (a) appeal and the deemed planning application should succeed and planning permission will be granted for the development described in the notice. The enforcement notice will be quashed.
23. Given the success on the ground (a) appeal there is no need to go on to consider the ground (f) and (g) appeals.

#### **Formal Decision**

24. It is directed that the enforcement notice is corrected by the deletion of "Dated 13 July 2023".
25. Subject to the correction, 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 5 Hillcrest Road, Crosby, Liverpool L23 9XS as shown on the plan attached to the notice.

*A Walker*

INSPECTOR