



Appeal Decisions

Site visit made on 7 February 2024

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 April 2024

Appeal Ref: APP/R5510/C/22/3307099 (Appeal A)

7 Haystall Close, Hayes UB4 8LE

- 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 appeals are made by Mr Kultar Chopra against an enforcement notice issued by the Council of the London Borough of Hillingdon.
 - The enforcement notice was issued on 5 August 2022.
 - The breach of planning control as alleged in the notice is:
Without planning permission, the development of an outbuilding with attached veranda (hatched blue on the attached plan) ("the breach") at 7 Haystall Close, Hayes UB4 8LE.
 - The requirements of the notice are :
 - (1) Demolish and remove the unauthorised outbuilding with attached veranda hatched blue on the attached plan;
 - (2) Remove from the land all the debris, items, fixtures and fittings, building materials, plant and machinery resulting from the works listed above.
 - The period for compliance with the requirements is Three (3) calendar months after this Notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.
-

Appeal Ref: APP/R5510/C/22/3307087 (Appeal B)

7 Haystall Close, Hayes UB4 8LE

- 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 Mr Kultar Chopra against an enforcement notice issued by the Council of the London Borough of Hillingdon.
 - The enforcement notice was issued on 5 August 2022
 - The breach of planning control as alleged in the notice is:
Without planning permission, the development of an enlargement of the roof of main dwelling house (hatched yellow on the attached plan) ("the breach") at 7 Haystall Close, Hayes UB4 8LE.
 - The requirements of the notice are:
 - (1) Remove the additional roof enlargement to the part single/part two storey side/rear extension;
 - (2) Remove from the land all the debris, items, fixtures and fittings, building materials, plant and machinery resulting from the works listed aboveOr
 - (1) Carry out the remedial work to the roof hatched in yellow on the attached plan to ensure the roof of the dwellinghouse either conforms fully with drawings LaVaastu/2021/265/04 Rev A received 08-12-21 or LaVaastu/2021/265/06 Rev A received 08-12-21 of approved planning consent 12797/APP/2021/3657.
 - (2) Remove from the land all the debris, items, fixtures and fittings, building materials, plant and machinery resulting from the works listed above.
-

- The period for compliance with the requirements is Three (3) calendar months after this Notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fee has been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
-

Appeal Ref: APP/R5510/C/22/3307063 (Appeal C)
7 Haystall Close, Hayes UB4 8LE

- 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 Mr Kultar Chopra against an enforcement notice issued by the Council of the London Borough of Hillingdon.
 - The enforcement notice was issued on 5 August 2022
 - The breach of planning control as alleged in the notice is:
Without planning permission, the development of a single storey side and rear conservatory extension with attached veranda (hatched green on the attached plan) ("the breach") at 7 Haystall Close, Hayes UB4 8LE
 - The requirements of the notice are:
 - (1) Remove the single storey side and rear conservatory extension and attached veranda hatched green on the attached plan;
 - (2) Remove from the land all debris, items, fixtures and fittings, building materials, plant and machinery resulting from the works listed above.
 - The period for compliance with requirement is Three (3) calendar months after this Notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fee has been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
-

Formal Decisions

Appeal A

1. The appeal is dismissed and the enforcement notice is upheld.

Appeal B

2. 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 enlargement of the roof of the main dwellinghouse at 7 Haystall Close, Hayes UB4 8LE, referred to in the notice.

Appeal C

3. The enforcement notice is corrected, with its Requirement (i) on Section 5 ('What you are required to do') deleted, and reworded to read as follows:
'Remove the glazed roof section linking the conservatory to the adjacent outbuilding that runs along the rear garden's southern boundary.'
4. Subject to this correction, the appeal is allowed insofar as it relates to the single storey side and rear conservatory extension and planning permission is

granted on the application deemed to have been made under s177(5) of the 1990 Act as amended.

5. Otherwise the appeal is dismissed, the application deemed to have been made under s177(5) of the 1990 Act as amended relating to the 'attached veranda' is refused, and the enforcement notice is upheld.

Appeal A

The Appeal on ground (f)

6. An appeal on ground (f) is that that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control which may be constituted by those matters.
7. The starting point in a such an appeal is identifying the purpose of the enforcement notice which, in this particular instance, is to remedy the breach of planning control. As the notice has not been appealed on legal grounds it is taken that the allegation is correct. The next step is to consider whether there is any obvious alternative or lesser step which would achieve the purposes of the enforcement notice with less cost and disruption. The requirements of the notice should be proportionate in that sense.
8. The planning merits of the development can only be considered pursuant to ground (a) and the consequential deemed planning application (DPA), if pleaded. In this instance no such appeal has been lodged and it is not appropriate for appellants to introduce arguments on the merits in the context of an appeal on ground (f). The power to vary the terms of the enforcement notice under s176(1) of the 1990 Act cannot be used to attack the substance of the enforcement notice.
9. In the judgement of *Ioannou v SSCLG & Enfield LBC* [2014] EWCA Civ 1432 it was held that the requirements of the enforcement notice cannot be varied so as to result in a grant of deemed planning permission under s173(11) for operations or activities that were not in existence when the notice was issued.
10. As the enforcement notice here alleges the construction of an outbuilding and requires that the outbuilding is removed, the purpose of the notice has to be to remedy the breach. As this is the case, and there is no DPA, any lesser step that would not remedy the breach cannot be accepted through ground (f).
11. The issue, therefore, is only whether the requirements are excessive to remedy the breach. For the steps to be proportionate they should be the minimum necessary to remedy the breach or harm.
12. In November 2021 a lawful development certificate (LDC) was issued under ref 12797/APP/2021/3403 for a single-storey outbuilding, to be used as a gym and store. The building erected, however, exceeds the height allowance for structures falling within the limitations of Class E, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England)

Order, 2015 (as amended). Further, a veranda to an approximate height of 3.1m has been added.

13. The development has therefore been implemented contrary to the building allowed under the said LDC. Accordingly, the benefit of planning permission is required for the lawful retention of the outbuilding and attached veranda. As mentioned, none has been sought.
14. The appellant, in offering to demolish the verandah, considers that this would be sufficient to remedy the harm caused by the breach. However, the Council's reasons for issuing the enforcement notice is its consideration that the outbuilding's presence results in a cramped form of development which relates poorly, and is incongruous to the dwellinghouse.
15. At my site visit, having observed the outbuilding's form and, positioning relative to the conservatory (also enforced against), I share the Council's concerns. Accordingly, I am satisfied that both the required steps stipulated in the notice are proportionate and necessary to remedy the breach of planning control.
16. The appeal on ground (f) therefore fails.

Appeal B

The appeal on ground a – the deemed planning application (DPA)

Main Issue

17. The main issue here is the effect of the development on the character and appearance of the area.
18. In 2004, and then subsequently 2022, planning permission was granted for a two-storey side extension and also a rear dormer to provide roofspace accommodation. The Council indicates that the approved drawings were not observed, with the ridge line of the two-storey side extension being raised and expanded, and the hipped-roof angle not correlating with that of the main dwelling.
19. The ridge of the recessed two-storey side extension is still lower than the dwelling's main ridgeline and, due to the setback and, moreover, its positioning, the extension's front facade is not fully visible by persons passing along the cul-de-sac. No 9, the adjacent dwelling eastwards, has a hip-ended two-storey side-extension and no 5, the appeal property's semi-detached neighbour, has a flat-roofed two-storey side extension.
20. There are also substantial two-storey side extensions to both nos 2 and 3.
21. In this contextual setting, and having observed the development targeted from vantage points along the cul-de-sac, I am not convinced that the unauthorised roof alterations have created any significant harm in terms of visual impact. In the circumstances I am doubtful that the requirements of the enforcement notice would achieve a great deal.
22. Overall, whilst I acknowledge that, on close scrutiny, the development might not fully meet the provisos of policy DHMB 11 of the Hillingdon Local Plan:

Part 2 (LP2), the extension is not readily visible in its entirety, and I see no material conflict with this the aims and objectives of this policy, nor those of LP2 policy DMHD1 or policy BE1 of the Hillingdon Local Plan: Part One (LP1).

23. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted.

Appeal C

The appeal on ground (a) – the deemed planning application (DPA)

Main Issue

24. The main issue here is the effect of the development on the character and appearance of the area.
25. The conservatory targeted by the enforcement notice abuts the main dwelling's side elevation but runs to a depth greater than the dwelling's rear wall. Further, an open-sided glazed-roofed structure which, at my site visit, I noted was used as a form of shelter. The Council describes this section as a 'veranda' which links the conservatory to an outbuilding that runs along the rear garden's southern boundary. The Council's representations would indicate that this outbuilding is not subject to the enforcement notice at appeal.
26. As it stands, the conservatory, although somewhat bulky, is of typical design. However, it is affected by the outbuilding, the subject of Appeal A. These two structures relate poorly to each other in physical terms and, given the impression of a perimeter enclosure surrounding the rear garden. Given my decision reached on Appeal A the amount of built-form within the rear garden will be reduced and the conservatory's impact would be markedly lessened.
27. However, the roof link between the conservatory and the adjacent outbuilding also plays its part in the perceived perimeter enclosure, and its removal would allow for some physical separation to help relieve the degree of built form, both actual and perceived. The Council, in its reasons for issuing the enforcement notice, raises objections to the design of the conservatory with the veranda and, as such, isolating the latter will allow for the conservatory to be treated as a single entity.
28. I shall, therefore, correct the enforcement notice to this end.
29. I acknowledge that the Appendix clarifying LP2 policy DMHD1 says that a conservatory on the back of an existing extension will generally be refused planning permission but, in this instance, given the size of the plot and the fact that the original dwelling has already been altered considerably, I am satisfied that the structure's scale sits comfortably against the already extended dwelling. Accordingly, I find no material conflict with the stated policies and, moreover, the development plan as a whole.
30. Regarding the conservatory, although the enforcement notice is upheld, the requirements of the notice will cease to have effect so far as inconsistent with the permission which I will grant, by virtue of s180 of the 1990 Act.

Timothy C King

INSPECTOR