



Appeal Decision

Site visit made on 26 March 2024

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08th April 2024

Appeal Ref: APP/T5150/C/22/3310488

3 Alexander Avenue, London NW10 3QT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act). The appeal is made by Mr Mohamed Ali against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 26 September 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of two storey front, side and rear extensions to the dwellinghouse.
 - The requirements of the notice are: STEP 1 Demolish the two storey front, side and rear extensions. STEP 2 Remove all items and debris, arising from that demolition, and remove all materials associated with the unauthorised development from the premises.
 - The period for compliance with the requirements is 4 months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f), 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.
 - **Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.**
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Preliminary Matters

1. It is claimed that the reasons for issuing the notice are not detailed enough and that its requirements are excessive, resulting in the notice being invalid. I shall address claims relating to the requirements of the notice as part of the appeal under ground (f), but the stated reasons for issuing the notice are detailed, clear, and concise. They refer to specific development plan policies, and the absence of reference to any specific objectives of the National Planning Policy Framework (the Framework) does not make those reasons unclear. The notice is not invalid.
2. The extensions to the dwelling remain incomplete. The appellant has submitted plans¹ as part of the appeal under grounds (a) and (f), which propose additional works to the extensions, including the addition of a new roof and finishes which form an alternative scheme.
3. Section 177(1)(a) of the Act provides me with the power to grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters. Caselaw² directs that, so long as there is an appeal under ground (a), I must consider whether the proposed alternative scheme would be 'part of the matters' stated in the enforcement notice as constituting a breach of planning control and whether it should be permitted. Whether or

¹ The appellant's Appendix 1

² Ahmed v SSCLG & Hackney LBC [2014] EWCA Civ 566

not the proposed alternative scheme amounts to part of the matters, and may be permitted, is for the planning judgement of the decision maker³.

4. Caselaw⁴ has recognised that virtually any alternative scheme is likely to involve at least some element of new work. However, in this case, the extent of new building work needed to implement the proposed alternative scheme, such as the addition of a new pitched roof structure, would be substantial. I therefore find the proposed alternative scheme is not within the scope of the matters stated in the enforcement notice and I have no power to grant planning permission for the proposed development shown in the appellant's Appendix 1 under the ground (a) and/or (f) appeals and the deemed application for planning permission.
5. The appeal form indicates that an appeal was made under ground (b). The appellant has since confirmed that an appeal under ground (b) is not pursued.

Ground (a) and the deemed application for planning permission

6. The main issue is the effect of the development on the character and appearance of the area.
7. The appeal site is a substantial corner plot on the junction of Alexander Avenue and Peter Avenue, occupied by a large detached dwelling. The appeal dwelling and its extensions form a prominent feature in views from the top of raised levels to the north, along Peter Avenue. Tall coniferous trees along the southern and part of the western boundary of the appeal site largely shield views of the appeal dwelling and its extensions from the south.
8. The surrounding area is characterised mainly by a mix of large detached and semi-detached houses, although a tall block of flats is located directly opposite the appeal site on Peter Avenue. There is variation in the sizes and design features of dwellings locally, and I noted examples of substantially extended dwellings, which appeared larger than the appeal dwelling and its extensions, along Peter Avenue, Alexander Avenue and Dobree Avenue. However, buildings in the local area generally share inter-war design characteristics, such as hipped roofs, bay windows and open-sided porches. The looming presence of the blocks of flats opposite the appeal site mark a change in the character of that part of Peter Avenue, but they do not take anything away from the otherwise pleasant suburban character and appearance of the rest of the road.
9. The extensions the subject of the notice dominate the appeal dwelling and site on account of their significant mass and height. They form a brash, unattractive, and harsh flat-roofed projection from the rest of the dwelling. Even in the context of blocks of flats on the opposite side of the road, the extensions create an unsightly building which is uncharacteristic for the area on account of the lack of architectural detailing, largely blank side elevation wall, and failure to respect the roof form and proportions of the original building. The extensions fail to complement the character or appearance of the host building or those of the surrounding area. They create an unpleasant blot in the street scene along Peter Avenue.
10. There is plenty of space to the front and side for planting around the extensions, but in the absence of details to show how that could be provided

³ R (oao Banghard) v Bedford BC [2017] EWHC 2391 (Admin)

⁴ Bhandal v SSHCLG & Bromsgrove DC [2020] EWHC 2724 (Admin)

without adversely affecting outside amenity and off-street parking areas, I am unconvinced that it would be possible to sufficiently mitigate the significant harm the tall and exposed extensions cause to the character and appearance of the area. On the information provided, finishing works to the extensions and any landscaping or design modifications do not appear to be capable of addressing that harm within the scope of this appeal.

11. For the reasons set out above, the extensions harm the character and appearance of the area, contrary to Policies DMP1 and BD1 of the Brent Local Plan 2019-2041 (2002) and Policy D6 of the London Plan (2021). These require, amongst other things, development to be of the highest architectural and urban design quality which complements the locality. The extensions fail to accord with the development plan and there are no material considerations, including the Framework, which indicate planning permission should be granted.
12. The appeal under ground (a) therefore fails and the deemed application for planning permission is refused.

Ground (f)

13. To succeed under this ground of appeal the appellant would need to demonstrate that the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused by the breach.
14. The notice requires the demolition of the extensions and for all items and debris resulting from that demolition to be removed. The purpose of the notice is therefore to remedy the breach of planning control, rather than any injury to amenity. There are no obvious, less onerous steps which would achieve the purpose of the notice. The steps required to be taken are not therefore excessive to remedy the breach of planning control.
15. I have set out above why the proposed alternative scheme falls outside the scope of this appeal. It may be the case that the appellant is able to carry out alterations to the extensions to create an acceptable form of development; however, it would be a separate matter for the appellant to seek planning permission for extensions of any alternative design.
16. The appeal under ground (f) therefore fails.

Ground (g)

17. To succeed under this ground of appeal the appellant would need to demonstrate that the period specified in the notice for its steps to be completed falls short of what should reasonably be allowed. The notice allows 4 months for the steps to be completed. That period commences when the notice comes into effect, which is the date of this decision.
18. The notice requires substantial works to be carried out to the appeal dwelling, which is occupied by the appellant and his family. I consider it unlikely that the appellant would face significant challenges finding a company suitable to carry out the works, or that it would be essential for the whole family and all domestic paraphernalia to move out of the dwelling while those works are completed. I do not therefore consider it reasonable for 9 months to be allowed for the notice to be complied with.

19. However, some changes may need to be made to the family's living arrangements and the appellant may want to seek planning permission for alterations to the extensions. In view of the above, I consider it appropriate in this instance to extend the compliance period by 3 months. This would be reasonable and sufficient to address the appellant's concerns.
20. The appeal under ground (g) therefore succeeds and I shall vary the compliance period from 4 months to 7 months.

Conclusion

21. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

Formal Decision

22. It is directed that the enforcement notice is varied by the deletion of the text '4 months' at schedule 5 of the enforcement notice and its substitution with the text '7 months'. Subject to the variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

L Douglas

INSPECTOR