



Appeal Decision

Site visit made on 16 April 2024

by D Moore BSc (HONS), PGDip, MCD, MRTPI, IHBC

an Inspector appointed by the Secretary of State

Decision date: 25/04/2024

Appeal Ref: APP/T5150/C/22/3310128

7 Carlyon Road, Wembley HA0 1HP

- The appeal is made under section 174 of the Town and Country Planning Act 1990, as amended, (the 1990 Act).
- The appeal is made by Mr Gao Long against an enforcement notice issued by 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 a hip to gable roof extension and rear dormer window, the erection of part two storey side and rear extension, a part single storey rear extension.
- The requirements of the notice are to:
 - 1) Demolish the hip to gable roof extension and rear dormer window; AND EITHER
 - 2) Alter the development (ie a part single and part two storey side and rear extension to dwellinghouse) so that it accords to the plans attached to this notice; ORDemolish the unauthorised part two storey side and rear extension, a part single storey rear extension and remove all items and debris arising from that demolition, and remove all materials associated with the unauthorised use and development from the premises.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (b) of the 1990 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 in the terms set out below in the Formal Decision.

Preliminary Matter

1. There is some unnecessary wording in the final requirement of the notice and reference to an unauthorised use which is incorrect. The notice should be corrected to delete the words "and remove all materials associated with the unauthorised use and development". However, since I am dismissing the appeal, a correction is not necessary in this instance.

The ground (b) appeal

2. In this ground of appeal, the onus of proof is firmly upon the appellant. To succeed on ground (b), the appellant must show on the balance of probabilities, that the matters alleged have not occurred as a matter of fact.
3. It is clear from what I saw on site, and the appellant's own evidence, that the matters alleged have occurred as a matter of fact. The ground (b) appeal must fail, therefore.

The ground (a) appeal and the deemed planning application

Background and Main Issues

4. The ground (a) appeal is that planning permission should be granted for the matters alleged. The terms of the deemed planning application are derived from the allegation. Hence, planning permission is sought for the erection of a hip to gable roof extension and rear dormer window, the erection of a part two storey side and rear extension, and a part single storey rear extension.
5. The appeal property is a two-storey, end-terrace house, which is located on a corner plot in a residential area. The main issue is the effect of the development on the character and appearance of the host dwelling and the surrounding area.

Reasons

6. Planning permission was granted on 5 December 2018 for the erection of a part single and part two-storey side and rear extension, subject to conditions (Ref 18/3887). The development has not been built in accordance with the approved plans. In particular, the main roof has been altered from a hip to a gable and a large rear dormer extension has been constructed, and the ground floor side extension appears larger than that approved. In addition, the external materials differ from the proposed materials indicated on the plans.
7. The unauthorised development does not reflect the form, design and materials of the host dwelling. The gabled roof to the main house contrasts with the hipped roof of the two-storey side extension. Moreover, the large flat-roofed dormer extension at the rear protrudes above the ridge of the side extension and appears incongruous. Its design does not complement that of the two-storey rear extension, which has a hipped roof. The result is that the dormer extension is an obtrusive feature that fails to harmonise with the host dwelling and represents poor design. In addition, the front elevation of the main house is faced in white painted render, whereas the extensions are constructed from brick. This accentuates the opposing design features.
8. The dwelling sits on a corner plot and is highly visible in the street scene. I saw that several houses in the vicinity had been altered, and some schemes were more successful than others. However, the terrace is largely uniform aside from the materials, and it has a simple balanced form which is characteristic of the area. The unauthorised extensions unbalance the terraced row and stand out in the street scene as an uncharacteristic and harmful alteration.
9. A further planning permission has been granted on appeal since the enforcement notice was issued¹. This was for a rear dormer with a hip to gable roof extension and alterations to the first floor side extension, pursuant to application ref 22/0890. This permission was subject to a condition requiring the development to be carried out in accordance with plans numbered 01, 06 and 07. The Inspector noted that the development, as built, did not accord with the submitted plans. It is clear that the appeal was determined on the basis of the submitted plans.
10. The matters before me concern the development as built. This differs from the most recently approved scheme because the two-storey side extension has

¹ APP/T5150/D/22/3304389, dated 7 February 2023.

been constructed with a hipped roof, as opposed to a gable. As explained above, this results in a development that is not coherent. The extensions lack harmony and appear as a series of disjointed alterations. In addition, the fenestration differs from the approved plans in that the ground floor window to the side extension is out of line with the window above. This, combined with the use of brick rather than render to the front elevation, adds to the disjointed and unbalanced appearance. The development recently approved is a valid fallback position, but for the reasons given, it does not outweigh the harm resulting from the scheme as built.

11. The appellant refers to an appeal made under section 195 of the 1990 Act against the Council's refusal to grant a certificate of lawful use or development for the alteration of the roof to a gable end, the construction of a rear facing dormer window and the installation of two rooflights to the front facing roof slope². The appeal was dismissed because the Inspector concluded that the development would not fall within that 'permitted' under the relevant classes of the Town and Country Planning (General Permitted Development) (England) Order 2015 and would not be lawful, therefore. The merits of the development were not relevant to the decision and this appeal has no bearing on the matters before me.
12. I conclude, therefore, that the unauthorised development has an adverse effect on the character and appearance of the host dwelling and the surrounding area. It does not accord with Policies D3 and D4 of the London Plan (2021), Policies DMP1 and BD1 of Brent Local Plan (2022) and the advice of the Council's Supplementary Planning Document No 2 "Residential Extensions and Alterations" (2018) which seek, among other things to promote good design and local distinctiveness, and to ensure extensions complement the host dwelling in terms of scale, form, design and materials. The development does not accord with the National Planning Policy Framework insofar as it seeks to promote good design.

Conclusion

13. For the reasons given above, I conclude that the appeal 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.
14. The appellant may rely on Section 180(1) of the 1990 Act, which provides where planning permission is granted after the service of an enforcement notice for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.

Formal Decision

15. 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.

D Moore

Inspector

² APP/T5150/X/20/3263218.