



Appeal Decisions

Site visit made on 13 May 2024

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

an Inspector appointed by the Secretary of State

Decision date:

Appeal A Ref: APP/T5150/C/22/3310398

Appeal B Ref: APP/T5150/C/22/3310399

2 Deanscroft Avenue, London NW9 8EN

- The appeals are made under section 174 of the Town and Country Planning Act 1990, as amended, (the 1990 Act).
- Appeal A is made by Mr Ahmed Ali against an enforcement notice issued by the Council of the London Borough of Brent. Appeal B is made by Mrs Zeineb Redha.
- 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 an additional single storey rear extension onto the existing extension to the rear of the premises AND without planning permission, the erection of an extension to the side of the premises.
- The requirements of the notice are to:
 - 1) Demolish the unauthorised additional single storey rear extension to the rear of the premises.
 - 2) Demolish the unauthorised extension to the side of the premises.
 - 3) Remove all debris and items, arising from the demolition works, and remove all materials associated with the unauthorised development from the premises.
- The period for compliance with the requirements is three months.
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (d) and (f) 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.
- Appeal B is proceeding on grounds (d) and (f).

Summary of Decisions: Appeal A is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary Matter

1. I understand the appellants sought advice from the planning department before starting the development now enforced against and were advised of the relevant 'permitted development' rights¹. There is no evidence that a plan was provided to the Council, and it seems the officer was giving general advice. In any event, there is no ground (c) appeal, that the matters alleged do not constitute a breach of planning control.

Appeals A and B on ground (d)

2. To succeed on ground (d), the appellants must show on the balance of probabilities, that the unauthorised development was substantially completed four or more years prior to the issue of the enforcement notice such that it is now too late for the Council to take enforcement action.

¹ Article 3 and Schedule 2, Part 1. Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.

3. The dispute between the parties concerns the rear extension, which the appellants claim was completed in 2017. It is said to be a separate structure to the side extension, which was completed in 2019, and should not be treated as a combined development.
4. The appellants have provided a copy of an email and hospital discharge information concerning a family member. The email, dated 14 April 2021, says that a doctor carried out home visits to the patient at 2 Deanscroft Avenue on 24 December 2016, 29 December 2016 and 5 January. It is stated that the patient was shielding at the premises in the conservatory in the back garden. There is also a receipt from a builder for a 'perspex' roof for delivery to the appeal premises, dated 13 December 2016.
5. A 'Google Earth' image dated 4 August 2017 has been provided which shows a rear extension at the property. This seems to be of a similar size to that enforced against, but it has a perspex roof. It is explained that the roof was leaking and was replaced with fibreglass sometime in 2019.
6. The Council has supplied evidence of its own in the form of aerial images, dating from June 2015, and google 'street view' images, dating from March 2018. These images show that the previous conservatory at the premises was of a different construction to the extension that now exists. The street view images show the side wall of the structure was timber, whereas it now appears to be a solid wall that supports the new fibreglass roof. The Council's images show these works were carried out around 2019/2020. This evidence contradicts the appellants' version of events.
7. I conclude on this matter that the appellants have not shown on the balance of probabilities that the matters alleged were substantially completed four or more years prior to the issue of the notice and would not be exempt from enforcement control. The ground (d) appeals must fail, therefore.

Appeal A on ground (a) appeal and the deemed planning application

Background and Main Issues

8. 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 an additional single storey rear extension and an extension to the side of the premises.
9. The main issue is the effect of the development on (i) the character and appearance of the host property and the surrounding area and (ii) the living conditions of neighbouring occupiers with regard to light and outlook.

Reasons

Character and Appearance

10. The appeal property is a two-storey, end of terrace house, which is located within a residential area. Prior to the works subject to the enforcement notice, the house had a single-storey rear extension, which the plans indicate projected about 2.5 metres into the rear garden. This reflected a similar rear extension at the adjoining property. An additional extension has been erected that extends a further 3.3 metres to the rear. It covers the entire width of the

garden, in line with the previous addition. It has a flat, fibreglass roof and is clad with composite panels.

11. At the side, there is a brick wall that forms the boundary between the appellants' garden and the adjoining access track. This has been enclosed and covered with a perspex roof. The area is used to store bicycles and other domestic items.
12. The side extension is modest in terms of its size and scale. It is visible in the street scene but cannot be considered prominent due to its relative size, its position at the side of the house and the screening provided by the brick wall. The perspex roof and white cladding that forms part of the side wall are low-key and blend in with the white painted gable of the house. Contrary to the Council's views, I do not consider the side extension to be visually obtrusive and harmful to the street scene or the appearance of the host dwelling.
13. The rear extension is relatively large in scale, and it can be seen in limited views from the street and from neighbouring properties. However, the development is not overly prominent as it is set behind the house, and it cannot be described as highly visible in the street scene.
14. The materials of the host property comprise white painted render to the front and side, with brick to the rear and a concrete tile roof. The windows are white UPVC, while the porch is grey. There is no consistency in the materials and the extension does not stand out when considered in context with the host property. In addition, I saw the area is characterised by houses that have been altered or extended and there is little conformity in the materials used throughout the wider area.
15. I also note that there are other rear extensions in the vicinity, and outbuildings are common features. The garden of the appeal property is spacious, and the extension can be accommodated whilst still allowing a reasonable amount of amenity space. I do not consider the extension amounts to over-development, as described by the Council, and it is not an uncharacteristic form of development in this location.
16. I conclude on this issue that the development would not have an adverse effect on the character and appearance of the host dwelling or the surrounding area. It would not be contrary to Policies BD1 and DMP1 of the Local Plan (2022), and the guidance of the National Planning Policy Framework (the Framework) insofar as they seek to promote good design and ensure development complements its surroundings.

Living Conditions

17. I saw that the rear extension has been constructed on the side boundary with the adjoining house, No 4 Deanscroft Avenue, and it is higher than the dividing fence by about 0.5 metres. The Council's Supplementary Planning Document No 2: 'Residential Extensions and Alterations' 2018 (SPD2) provides guidance on rear extensions. It recommends that single-storey rear extensions should be a maximum of 3 metres in depth from the original rear wall of the house. Those that are larger should be set back from the boundary.
18. The rear extension does not meet this guidance, however, I must take account of the site-specific circumstances. In this case, the adjoining house also has a rear extension of a similar depth to the pre-existing extension at the appeal

property. This means that the unauthorised rear extension extends 3.3 metres beyond the extended rear wall of the neighbour's house, which reduces its impact.

19. The guidance of SPD2 seeks to avoid adverse impacts due to loss of light and outlook, among other things. The unauthorised extension is not overly large when the extension to the neighbour's house is taken into account. Nor is it of an excessive height as only a small part would be visible over the fence. I do not consider the development would affect the outlook from the neighbouring property, therefore.
20. The gardens to the properties on this side of Deanscroft Avenue face north and the extension lies to the east of No 4, the adjoining property. As such, any loss of sunlight would be limited to the mornings during the summer months, which I do not consider to be a material impact. There may be a reduction in daylight resulting from the rear extension, but this is unlikely to be significant due to its size and scale relative to the adjoining property as extended.
21. Taking account of these circumstances, I conclude that the rear extension would not have a material adverse effect on the living conditions of neighbouring occupiers with regard to light and outlook. Therefore, the proposal would not be contrary to Policies BD1 and DMP1 of the Local Plan and the Framework insofar as they seek to protect residential amenity.

Conclusion

22. For the reasons given above, I conclude that Appeal A succeeds on ground (a). I shall grant planning permission for the erection of an additional single storey rear extension onto the existing extension to the rear of the premises and the erection of an extension to the side of the premises as described in the notice. The appeals on ground (f) do not therefore fall to be considered.

Formal Decision

23. Appeal A 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 erection of an additional single storey rear extension onto the existing extension to the rear of the premises and the erection of an extension to the side of the premises at 2 Deanscroft Avenue, London NW9 8EN as shown on the plan attached to the notice.

D Moore

Inspector