



Appeal Decision

Site visit made on 25 June 2024

By Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2024

Appeal Ref: APP/G5180/C/23/3320201

85 Rushet Road, Orpington BR5 2PS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Jarsolaw Zukowski against an enforcement notice issued by the Council of the London Borough of Bromley.
 - The notice was issued on 13 March 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey front extension (a garage) on the land.
 - The requirements of the notice are: (a) Remove from the land the single storey front extension (garage). (b) Remove any resulting debris. (c) Restore the land to its condition before the breach of planning control took place.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 (as amended). 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.
-

Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matter

2. This Decision takes into account the revised National Planning Policy Framework (the Framework), published on 19 December 2023.

Ground (a) appeal

Main Issue

3. The main issue in this ground of appeal is the effect of the garage on the character and appearance of the surrounding area.

Reasons

4. The appeal property contains a modern, two-storey end of terrace dwelling. The terrace is set well back from the street, behind deep front garden areas largely laid to hard surface. On the other side of the host dwelling is a separate two storey modern terrace, which sits further forward in relation to the street whilst still providing ample frontages, also mainly hard surfaced. Both terraces are similar in terms of their built form and elevational arrangements, incorporating staggered eaves and rooflines which reflect falling ground levels, as well as having modestly sized lean-to front porches. The

external finishes of the terraces-red brick walls and dark coloured tiles-are also comparable.

5. Opposite the property and elsewhere in the street are two storey semi-detached and terraced dwellings. These properties have shallower but still for the most part comfortably sized and largely open front garden areas, often containing maturing planting. There is a notable absence of substantial built forms at the front of properties in the vicinity. The above factors all contribute to a pleasing sense of coherence and to an agreeably spacious, albeit fairly unremarkable, suburban residential feel in the surroundings.
6. The enforcement notice attacks a garage erected at the front of the property. The garage has a significant overall length, occupying a good part of the distance between the principal elevation of the dwelling and the street. It is also of considerable width, being around half as wide as the host dwelling. Furthermore, the garage is quite tall, its monopitch roof notwithstanding, the overall height being emphasised by the slightly higher ground level in relation to adjoining residential property at 87 Rushet Road (No 87).
7. Given its overall length, the garage protrudes well forward of the principal elevation of the host dwelling and those of the rest of the terrace. It protrudes well beyond the principal elevation of No 87 and other dwellings in the neighbouring terrace. Furthermore, the garage protrudes beyond and is significantly taller than the timber shed at the front of No 87. The elongated rectangular profile of the garage stands much closer to the street than the principal elevation of the host dwelling and those of neighbouring terraced properties.
8. The garage is therefore an addition of substantial scale, dominating the principal elevation of the host dwelling and sitting awkwardly in relation to the neighbouring properties. Also, by occupying a significant portion of the front garden area the garage is entirely at odds with the largely open frontages of residential development in the immediate and wider locality. This has all led to the garage appearing as a discordant and obtrusive built feature in the street scene, as well as significantly eroding the sense of spaciousness at the front of the host dwelling and creating an appreciably more built-up feel in the locality.
9. Although similar to the rendered finish on the external walls of some other dwellings in the vicinity, the white painted render applied to the external walls of the garage does not sit easily with the more mellow, brick finishes of the host dwelling and that of neighbouring terraced properties. This further emphasises the failure of the garage to integrate successfully with its surroundings.
10. A portion of the garage is adjacent to the side elevation of No 87. Also, the stepped arrangement between the two terraces at first floor level is maintained. However, those matters do not offset the adverse visual impact of the garage to any significant degree. Neither does No 87's shed and the maturing evergreen side boundary hedge assist greatly in terms of assimilating the garage within its surroundings.
11. Parking vehicles at the front of the property would not have similar or worse visual consequences to the garage. Even if larger private vehicles such as a van and/or a touring caravan were to be parked there for long periods they would be bound to move at some stage, whilst the garage would remain permanently.

12. Since applying a brick finish similar to the external walls of the host dwelling would make little difference to the scale and location of the garage, imposing a planning condition to that effect would not satisfactorily address the visual harm caused. As the notice only relates to the garage, the extension at the side of the host dwelling is beyond the scope of this appeal. Moreover, that extension has limited implications for the visual impact of the garage.
13. The appellant supplied drawings for an alternative scheme in which the overall length of the garage would be reduced by about a metre, to line up with the front elevation of No 87's shed. This scheme would only result in a modest reduction in the scale of the garage however, as around 90% of the existing structure would be retained. Accordingly, even if the external walls of the modified garage were also to be finished in brick, this scheme would not satisfactorily address the visual harm identified above.
14. Although no local design code was drawn to my attention, none of the foregoing factors point to the garage as being consistent with paragraph 135 of the Framework. This advises that planning decisions should ensure that developments function well and add to the overall quality of the area, are visually attractive including as a result of good architecture and are sympathetic to local character, while not preventing or discouraging appropriate innovation or change and that when optimising the potential of a site the amount of development should be appropriate.
15. For the above reasons, I conclude that the garage causes unacceptable harm to the character and appearance of the surrounding area. This is in conflict with criterion in Policy 6 of the Bromley Local Plan (LP), which requires the design and layout of residential extensions to respect or complement the scale, form and materials of construction of the host dwelling and to be compatible with development in the surrounding area. Additionally, the garage is in conflict with LP Policy 37, which requires development to be of a high standard of design and layout, being imaginative and attractive to look at, of good architectural quality, complementing the scale, proportion, form, layout and materials of adjacent buildings and areas and positively contributing to the street scene.

Other Matters

16. There would be little likelihood of significant disruption to neighbours in the event of the garage being demolished. Nor is there any firm evidence that materials recovered from the demolition cannot be recycled. Therefore, these matters carry little weight.

Conclusion-Ground (a) appeal

17. The garage causes unacceptable harm to the character and appearance of the surrounding area, in conflict with the Development Plan taken as a whole. There are no material considerations, including the Framework, that indicate the decision should be made other than in accordance with the Development Plan. Therefore, I conclude that the ground (a) appeal should not succeed.

Ground (f) appeal

18. The ground of appeal is that the notice requirements are excessive.

19. An enforcement notice can have the purpose of remedying the breach of planning control, including by restoring the land to its condition before the breach took place, or it can have the purpose of remedying any injury to amenity which has been caused by the breach. Whilst the notice does not state as such, its purpose must be the former. The requirements involve nothing less than demolition of the garage. By complying with those requirements, the property would be restored to its condition before the breach took place.
20. The planning merits of the alternative scheme have been considered above. In the context of ground (f), as the garage would substantially remain in situ the alternative scheme would sustain the breach. This would not restore the property to its condition before the breach took place and so would not achieve the purpose of the notice. As a result, the scheme does not represent an obvious alternative to the notice requirements. No other alternative to those requirements was suggested. In my view, no other requirements would remedy the breach.
21. Therefore, the notice requirements are not excessive; they are a proportionate remedy, being the minimum works necessary to restore the property to its condition before the breach took place. The ground (f) appeal fails.

Ground (g) appeal

22. The ground of appeal is that the time specified for complying with the notice requirements falls short of what should reasonably be allowed.
23. I am mindful that the appellant is entitled to assume their ground (a) appeal will succeed. Even so, the works associated with demolishing the garage would be a relatively small-scale and straightforward task for a suitably experienced small building contractor. There is no firm evidence of an acute shortage of such contractors, or of unduly lengthy waiting times before they become available. In all probability, the remedial works would have a limited duration, perhaps taking a few weeks at most to complete, including reinstating the pre-existing front porch.
24. The three-month period specified in the notice would therefore provide sufficient opportunity for the appellant to arrange for and have the remedial works carried out. That being the case, extending the compliance period to six months would serve little purpose beyond perpetuating the breach and its associated planning harm.
25. Consequently, in my view the period for compliance is not too short and is reasonable. The ground (g) appeal also fails.

Conclusion

26. 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 deemed application.

Stephen Hawkins

INSPECTOR