



Appeal Decision

Site visit made on 17 September 2024

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 October 2024

Appeal Ref: APP/R5510/C/22/3309110

3 Barnhill Lane, Hayes UB4 9HD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Adeel Mughal against an enforcement notice issued by the Council of the London Borough of Hillingdon.
 - The notice was issued on 5 September 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the development of a part two storey, part single storey side and rear extension hatched in purple plan attached to the notice ('the breach').
 - The requirements of the notice are: A (i) Remove the part two storey, part single storey side and rear extension. (ii) Remove from the land all debris, waste, building materials, plant, equipment and machinery resulting from the works carried out in compliance with (i). Or B (i) Construct the development to fully accord [with] approved drawings labelled PF-03 BL-01 Rev A, P-03 BL-02 Rev B, PF-03 BL-0 Rev A received 5 November 2020 of approved planning permission reference 75801/APP/2020/2565.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 (as amended). Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended has lapsed.
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Decision

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

Preliminary Matter

2. There is no deemed planning application following an appeal made on ground (a) and the relevant fee has not been paid. Therefore, the planning merits of the matters that are alleged by the enforcement notice to be in breach of planning control cannot form part of my deliberations.

Ground (c) appeal

3. The ground of appeal is that the matters alleged in the enforcement notice do not constitute a breach of planning control. The onus is on the appellant to show why their appeal should succeed on this ground, the relevant test of the evidence being on the balance of probability.
4. The appeal property contains a two storey, semi-detached dwelling. Part two storey and part single storey extensions have been erected at the side and rear of the dwelling. Erecting the extensions has involved undertaking building operations, falling within the definition of development set out in s55(1) of the Act. Planning permission is required for the carrying out of any development of land, having regard to the Act at s57(1).

5. The Council granted planning permission to erect part two storey, part single storey side and rear extensions to the dwelling in November 2020¹. There are significant differences however between the permitted extensions and what has been built. In particular, part of the single storey rear extension protrudes 4m beyond the rear wall of the original dwelling, not 3m as shown on the permitted drawings. Also, the side extension is larger than the permitted drawings, being built up to the front wall of the original dwelling at ground floor level as opposed to set back 1m from the original front wall.
6. These deviations from the permitted scheme are material and not '*de minimis*.' There has been a considerable and appreciable increase in the size of the extensions, compared to what was permitted. Moreover, condition No 2 of the 2020 permission required the development to be carried out in complete accordance with the specified drawings. Consequently, the 'as built' extensions do not benefit from the 2020 permission.
7. In September 2020, the Council determined that prior approval was not required to erect a single storey extension protruding 4m from the rear of the dwelling.² To benefit from the prior approval, this extension should have been erected separately from the permitted extensions and substantially completed before further works were undertaken. The Council made it clear in an informative note attached to the 2020 permission that the prior approval extension could not lawfully be built in conjunction with the permitted extensions.
8. It is not in dispute however that the side and rear extensions were erected together at around the same time. The extensions therefore formed part of a single building operation to enlarge the dwelling. The practicality of erecting the prior approval extension separately has limited relevance to this ground of appeal, which is strictly concerned with matters of fact and law.
9. Erecting the extensions as a single building operation also means that the enlarging the side extension at the front cannot benefit from the planning permission granted by the GPDO³ at Article 3, Schedule 2, Part 1, Class A to enlarge, improve or alter a dwelling. In any event, that permission is disapplied by Article 3(5) of the GPDO, where, as in this case, the building operations involved in the construction of the building are unlawful.
10. There is no grant of express planning permission for the 'as built' extensions following the submission of a planning application. A breach of planning control is defined in s171A(1) of the Act as carrying out development without the required planning permission or failing to comply with any condition or limitation subject to which planning permission has been granted.
11. Therefore, the appellant has been unable to show that the matters stated in the notice do not constitute a breach of planning control. The available evidence shows otherwise. The ground (c) appeal fails.

Conclusion

12. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Stephen Hawkins

INSPECTOR

¹ Council Ref: 75801/APP/2020/2565

² Council Ref: 75801/APP/2020/2550

³ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)