



Appeal Decision

Site visit made on 22 October 2024

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 November 2024

Appeal Ref: APP/M5450/C/23/3316550

6 - 7 North Parade Mollison Way, Edgware HA8 5QH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Yasotharan Rajendram against an enforcement notice issued by the Council of the London Borough of Harrow.
 - The enforcement notice was issued on 10 January 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised construction of a single storey rear extension shown hatched on Plan-2 ("The unauthorised development")
 - The requirements of the notice are:
 1. Demolish the Unauthorised development.
 2. Make good any damage cause to the host building as a result of the above step and ensure that all materials used shall match those in the existing building.
 3. Remove from the Land all materials and debris arising from compliance with the aforementioned requirements of the notice.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (e) and (f) 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.
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Decision

1. The appeal is dismissed, and 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 as amended.

The appeal on ground (e)

2. The main issue to consider is whether the appellant has shown on the balance of probability that the notice was not served as required by section 172 of the 1990 Act as amended and, as a result, he has been substantially prejudiced. In the legal grounds of appeal, the burden of proof is upon the appellant, with the standard of proof being the balance of probabilities.
3. Section 172(2) of the Act requires that a copy of the enforcement notice be served:
 - (a) on the owner and on the occupier of the land to which it relates; and
 - (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.

4. The appellant states that the enforcement notice has different addresses within the same document. However, the notice itself and the accompanying site plans attached to the notice correctly identifies the site as 6 -7 North Parade, Mollison Way HA8 5QH. Whilst the cover letter incorrectly refers to '6-8 North Parade', this is not the enforcement notice, and therefore the typographical error on the cover letter does not affect the notice itself.
5. Evidently, the appellant received a copy or copies of the enforcement notice and was able to lodge an appeal within the relevant timeframe. The Council have submitted a list of those who have been served with the notice and the appellant has not identified the parties who they consider were not notified in accordance with Section 172, and thus has not demonstrated any substantial prejudice by failure to do so. It cannot therefore be said that parties with an interest in the land have been substantially prejudiced.
6. Consequently, the appeal on ground (e) must fail.

Ground (a) appeal and the Deemed Planning Application

Main Issues

7. The main issues are the effect of the development on the character and appearance of the host building and the area.

Reasons

Character and appearance

8. The appeal site relates to the ground floor commercial unit, within a three-storey building. The building is situated in a parade of similar properties which generally have commercial uses on the ground floor with residential above. Most properties in the terrace have been extended with rear extensions of various sizes.
9. The Harrow Supplementary Planning Document Residential Design Guide, 2010 (Design SPD) highlights that "extensions should harmonise with the scale and architectural style of the original building, and the character of the area." The SPD further states that "External materials, particularly brickwork, tiles and joinery details, should match or complement those on the existing building, unless a contemporary modern design is justified, and should be durable and age well".
10. Whilst there is no specific policy objection to the principle of a single storey rear extension in this location, the current unauthorised development comprises poor quality materials consisting of timber boarding and metal sheeting for walls and doors lacks any architectural merit. This results in harm to the character and appearance of the host building and the area generally.
11. The development is clearly visible from a number of neighbouring properties and commercial units. Whilst reasonably localised in its extent, the effect of the development diminishes unacceptably the character and appearance of the host building with consequent harm to the character and appearance of the surrounding area.
12. I therefore find that the development adversely affects the character and appearance of the host building and the area, in conflict with Core Policy CS1 of the Harrow Core Strategy (2012), Policy DM1 of the Harrow Development

Management Policies Local Plan (2013), Policy D3 of the London Plan (2021), and the Design SPD, and the Development Plan as a whole. Amongst other things, these policies seek to deliver a high standard of design and layout and state that development proposals should be of high quality, with architecture that pays attention to details.

13. The development also conflicts with the National Planning Policy Framework, 2023 (the Framework) which seeks to ensure that developments are visually attractive as a result of good architecture, and are sympathetic to local character and history, including the surrounding built environment.

Other matters

14. The appellant is willing to render the elevations of the extension to match the main building and neighbouring properties. However, given that the side walls are made from metal sheeting it is unclear how this can be achieved or that the final finish would be satisfactory. As such the alternative materials suggested by the appellant would not overcome the objections raised above under the main issue. It follows that I do not consider that this could be satisfactorily dealt with by condition.
15. I have had regard to the content of the appellant's statement and to the presence of other properties within the vicinity, some of which appear to have been extended with extensions and varying sizes and materials. However, I am not aware of the particular circumstances in those cases and therefore cannot be certain that the circumstances which led to those approvals is directly comparable to the development before me. In any event, I must consider the appeal on its own merits. The existence of other extensions in the locality does not justify the harm I have identified nor does the lack of objection raised with regards to the principle of the development.
16. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The development harms of the character and appearance of the host building and area generally, in conflict with the development plan taken as a whole. None of the other matters raised by the appellant outweighs the harms identified. Therefore, there are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.

Conclusion on Ground (a) and the Deemed Planning Application

17. For the reasons given and with regard to all other matters raised, I conclude that the appeal on ground (a) should fail, and the deemed planning application should be refused.

The appeal on Ground (f)

18. The appeal on this ground is "that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters (i.e., the matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".

19. The enforcement notice requires the demolition of the unauthorised development, and therefore, the purpose of the notice is to remedy the breach of planning control rather than only remedy any injury to amenity.
20. The appellant considers this excessive and states that he is willing to match the materials to the existing property and neighbouring extensions. However, I have already found under the ground (a) appeal, that it has not been satisfactorily demonstrated how the extension could be modified achieve this. Indeed, it is open to the appellant to submit a planning application to the Council for this revised scheme if they so wish.
21. There are no other lesser steps drawn to my attention or any obvious alternative that would remedy the breach of planning control which is the purpose of the notice.
22. On this basis, the Ground (f) appeal fails.

Conclusion

23. 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 as amended.

R Satheesan

INSPECTOR