



Appeal Decision

Site visit made on 17 June 2025

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 July 2025

Appeal Ref: APP/A5270/C/23/3323558

7 Fisher Close, Greenford, Middlesex UB6 9UF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Jacek Zywicki against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The notice was issued on 12 April 2023.
 - The breach of planning control as alleged in the notice is without planning permission the construction of a wraparound two storey side extension and part single, part two storey rear extension.
 - The requirements of the notice are: 1. Demolish the wraparound two storey side extension and part single, part two storey rear extension; and 2. Make good the elevations of the original building following demolition; and 3. Remove all resultant debris. Or: 1. Alter the wraparound two storey side extension and part single, part two storey rear extension to accord with the development granted planning permission under reference 193290HH subject to its terms and conditions for the "Two storey side to rear extension; and single storey rear extension" in accordance with drawing numbers: 1635-11 Rev A (proposed ground and first floor plans), 1635-12 Rev A (proposed side elevation and proposed roof plan), 1635-13 Rev A (proposed front and rear elevations) which are attached to the notice; and 2. Remove all resultant debris.
 - The period for compliance with the requirements is nine months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c) 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, 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.

Application for costs

2. An application for costs has been made by the Council of the London Borough of Ealing against Mr Jacek Zywicki. This application is the subject of a separate Decision.

Preliminary Matters

3. My decision takes into account the revised National Planning Policy Framework, which came into force during the course of the appeal.
4. It is not within the scope of this appeal to consider whether it was expedient for the Council to take enforcement action. Such matters can only be dealt with by way of Judicial Review.

Ground (c) appeal

5. The ground of appeal is that the matters alleged in the enforcement notice do not constitute a breach of planning control. The onus is firmly 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.

6. The appeal property contains a two-storey, semi-detached dwelling. A part single storey and part two storey extension has been erected at the rear of the dwelling, along with a two-storey extension at the side and to the rear of the dwelling. Erecting these extensions has involved carrying out building operations falling within the definition of development in s55(1) of the 1990 Act.
7. Planning permission is required for the carrying out of any development of land, having regard to s57(1) of the 1990 Act. Permission was granted in October 2019 to erect a two-storey side to rear extension and a single storey rear extension to the dwelling.¹ Another permission referred to in the appellant's written statement of case concerns a different property and so is not relevant to this ground of appeal.
8. As built, the extensions deviate considerably from the drawings accompanying the above permission. These deviations include the side to rear extension being set back around 0.7 metres less from the principal elevation of the original dwelling at first floor level and along with the rear extension, protruding around 0.7 metres further from the original rear elevation. This has resulted in significantly larger extensions than in the permitted scheme. The pitched roofs erected over the extensions since the notice was issued also deviate from the permitted scheme. Although the rear facing central gable on the rear extension is similar, the side eaves are not in line but above those of the original dwelling. Moreover, the side to rear extension incorporates a narrow, gabled feature on the side elevation and an elongated rear roof slope including eaves at varying angles, all of which differs markedly from what is shown on the permitted drawings.
9. Additionally, the single storey portion of the rear extension has a lean-to roof sitting behind a parapet wall. This does not reflect the hipped roof treatment and eaves detail in the permitted scheme. Other deviations include installing an extra first floor window and a door in lieu of a window in the rear elevation of the rear extension, along with a first-floor window in the side elevation of the side to rear extension. Also, apart from on the rear facing central gable and on part of the side to rear extension above the eaves, the external walls of the extensions are all finished in white render instead of weatherboarding above ground floor level.
10. The deviations from the permitted scheme cannot be explained by the prolonged period over which the building works have taken place. Although the dwelling is still surrounded by scaffolding, apart from the single storey portion the extensions appear to be largely complete externally. The single storey portion aside, there is little firm evidence that significant further works would be required to substantially complete the extensions. On the other hand, considerable works would be needed to make the extensions conform to the permitted scheme. This would include the demolition and rebuilding of external walls to reduce the built footprint of the extensions to that shown on the permitted drawings and significantly altering parts of the roof. The appellant offered to enter into a Unilateral Undertaking (UU) under s106 of the 1990 Act requiring the extensions to be completed to conform with the permission. However, that would make little difference to whether the extensions currently do so. Moreover, no completed UU was supplied.
11. Therefore, I find that, as a matter of fact and degree and on the balance of probability, the deviations from the permitted scheme have, individually and cumulatively, resulted in a development which is materially different to that granted permission. Besides, the deviations are also in breach of conditions attached to the aforementioned permission. These include condition No 2 which requires development to be carried out in accordance with the specified drawings, condition No 3 which requires the external materials to match those of the existing building and condition No 4 which restricts additional windows or other openings in the

¹ Council Ref: 193290HH

external walls and roof. The definition of a breach of planning control in s171A(1) of the 1990 Act includes 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.

12. For the reasons set out above, the appellant has been unable to show to the required standard that the extensions do not constitute a breach of planning control. The ground (c) appeal fails.

Ground (a) appeal

Main Issues

13. The main issues in this ground of appeal are:

- The effect of the extensions on the character and appearance of the dwelling and the surrounding area.
- The effect on the living conditions of occupiers of neighbouring residential property, having regard to outlook.

Reasons

Character and appearance

14. The property is set back from the head of a modern residential cul-de-sac, in which the dwellings are generally arranged in pairs with balanced elevational treatments and have complementary external finishes. Overall, there is generous spacing between the pairs of dwellings, which are set back similar distances from the street behind mostly open front gardens. These factors contribute to the pleasantly spacious and cohesive suburban residential character and appearance of the surrounding area.
15. The permitted side to rear extension would be set well back from the principal elevation of the original dwelling at first floor level, also with a significantly lower eaves line and a similarly sloped roof. This reflects advice set out in the Council's Supplementary Planning Document 4-Residential Extensions (SPD) that such extensions should generally have the same roof slope as the main roof with similar eaves detail and profile and should appear subordinate to the original dwelling. It also echoes the sympathetic design and subservient scale of a two-storey side extension at 11 Fisher Close (No 11) nearby, recently erected with permission².
16. As built, the side to rear extension is not set back nearly so far from the principal elevation of the original dwelling at first floor level compared to in the permitted scheme. Although the ridge of the side to rear extension roof is below the main ridge line, the limited set back from the principal elevation does not compare favourably with the permitted extension at No 11. Additionally, as noted above both the side to rear and rear extensions protrude considerably further from the rear elevation of the original dwelling. The corresponding significant increase in the overall scale of the extensions does not sit comfortably with the relatively modest proportions of the original dwelling. The higher eaves line of the rear extension accentuates the failure to integrate successfully with the original dwelling. Also, the additional built footprint of the extensions contributes to a significant and harmful erosion in the sense of spaciousness that would previously have been experienced around the dwelling.
17. In addition, as noted above the side to rear extension as built incorporates a roof form which, with its narrower gable feature at the side along with the elongated rear roof slope and complex eaves arrangements, appears awkward and contrived, failing to reflect the simple angled profile of the original roof. The use of a different

² Council Ref:191910HH

external material between the eaves line and the roof plane adds to the sense of incongruity created by this roof form, which is entirely at odds with the sloping roofs of most dwellings in the surrounding area and is inconsistent with advice in the SPD. This and the foregoing factors all lead to the extensions not appearing sufficiently subordinate to the original dwelling and having an adverse effect on the previously balanced appearance of the pair of dwellings, as well as failing to reflect the prevailing visual qualities of local development.

18. The unrelieved expanse of white coloured render on the external walls reinforces the failure of the extensions to integrate successfully within their built context. It does not compare favourably with the preponderance of weatherboarding on the elevations of the extended dwelling in the permitted scheme. Nor does it respect or reflect the partly weatherboarded elevations of the original dwelling and the attached neighbouring residential property at 8 Fisher Close (No 8), or the similar elevational treatments of a number of nearby dwellings.
19. For the reasons set out above, the extensions are viewed as substantial, alien additions, being entirely at odds with the general pattern of surrounding development and causing unacceptable harm to the character and appearance of the dwelling and that of the surrounding area. This is in conflict with criteria in Policy D3 of the London Plan (LP), which require new development to enhance the local context by delivering buildings and spaces that positively respond to local distinctiveness including through their scale and appearance and to be of high quality, with architecture which pays attention to detail including through the use of attractive, robust materials. There is conflict with Policy 7.4 of the Ealing Development Management Plan Development Plan Document (DPD), which requires new development in existing built areas to complement their building pattern, scale, materials and detailing. There is also conflict with criterion in DPD Policy 7B, which requires extensions to meet design standards.

Living conditions

20. The single storey portion of the rear extension is adjacent to the boundary with No 8. In the permitted scheme, this portion would have dimensions which reflect advice in the SPD on the maximum depth and height of 3 metres for rear extensions. As built, the single storey portion also protrudes significantly further from the rear elevation of the original dwelling than in the permitted scheme. Additionally, it incorporates a parapet wall adjacent to the boundary with No 8 that is considerably taller than the eaves in the permitted scheme.
21. The overall depth of the single storey portion is well in excess of the maximum depth limit in the SPD, the parapet wall also slightly exceeding the maximum height limit. There is a much greater extent of solid external wall in proximity to rear facing ground floor windows and in part of the rear garden at No 8, compared to in the permitted scheme. The substantial overall depth and height have led to the single storey portion being experienced as a dominant built feature in outward views from the ground floor at the rear of No 8, as well as in part of the rear garden of that property. This has contributed to a significant erosion in the largely open aspect previously enjoyed by the occupiers of No 8, leading to a more restrictive outlook with an appreciably stronger and oppressive sense of enclosure by built form, none of which compares favourably with the permitted scheme.
22. Therefore, the extensions also cause unacceptable harm to the living conditions of occupiers of neighbouring residential property. This is in conflict with criterion in LP Policy D3, which requires new development to deliver appropriate outlook and amenity, amongst other things. Furthermore, it is in conflict with criteria in DPD Policy 7B, which require new development to achieve a high standard of amenity for adjacent uses, including by ensuring appropriate levels of development on site and a positive visual impact.

Other matters

23. I am given to understand that building works at the property have been prolonged by factors including the COVID-19 pandemic, the appellant suffering a serious injury and a shortage of funds. However, such matters have little bearing on the planning merits of the development and so can only be afforded limited weight.
24. Whether the appellant has done everything they could be expected to do to secure compliance with the notice has little relevance in this appeal. The period allowed for compliance does not begin until the notice takes effect.

Conclusion-Ground (a) appeal

25. The extensions cause unacceptable harm to the character and appearance of the dwelling and the surrounding area and to the living conditions of neighbouring occupiers, in conflict with the Development Plan taken as a whole. There are no material considerations 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 (g) appeal

26. The ground of appeal is that the time allowed for complying with the notice requirements falls short of what is reasonable.
27. The remedial works would be a relatively straightforward task for a suitably experienced small building contractor, whichever alternative requirement the appellant chooses to comply with. Use of specialist plant or equipment would be unnecessary and the works are unlikely to take more than a few months at most to complete. In the event the appellant is unable to undertake the works there are likely to be a significant number of contractors who would be available to do so, given a reasonable period of notice. The possibility of a COVID-19 or similar pandemic occurring in the near future is not a sound reason to extend the period for compliance, especially as there is no firm evidence that such circumstances might arise.
28. Accordingly, in my estimation the nine-month period specified in the notice affords ample time for the appellant to arrange any necessary funding, as well as to search for and secure the services of a suitable contractor if required and to either carry out the works or have them carried out. This leads me to conclude that the time allowed for complying with the requirements is reasonable and not too short. An appropriate balance is struck between remedying the breach as soon as practicable, whilst not placing a disproportionate burden on the appellant. Extending the compliance period on the other hand would do little more than perpetuate the breach. The ground (g) appeal also fails.

Conclusion

29. 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).

Stephen Hawkins

INSPECTOR