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# Appeal Decision

Inquiry held on 4 May 2011

Site visit made on 4 May 2011

**by Mrs H M Higenbottam BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 22 June 2011**

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**Appeal Ref: APP/T5150/C/10/2135959**

**27 Preston Road, Wembley, Middlesex HA9 8JZ**

- 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 W S N Wong against an enforcement notice (the Notice) issued by the Council of the London Borough of Brent.
- The Council's reference is E/10/0327.
- The notice was issued on 30 July 2010.
- The breach of planning control as alleged in the notice is the unauthorised erection of a part single, part two storey side extension, a part single and part two storey rear extension, a hip to gable roof extension and rear dormer window to the dwellinghouse.
- The requirements of the notice are:
  - STEP 1 Demolish the part single, part two-storey and rear extensions, the hip to gable and rear dormer roof extension, and remove all items, materials and debris associated with the unauthorised development from the premises;
  - STEP 2 Restore the premises back to its original condition before the unauthorised development took place.
- Or
  - Alter it to accord with the plans and conditions approved in Planning Permission No 09/1441 dated 29<sup>th</sup> July 2009 a copy of which was attached to the Notice.
- The period for compliance with the requirements is 4 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. The prescribed fees have been paid and, therefore, the deemed application for planning permission also falls to be considered.

**Summary of Decision: The appeal is dismissed and the enforcement notice, as corrected, is upheld.**

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## Applications for Costs

1. At the Inquiry two applications for costs were made. One on behalf of the appellant against the Council and the other on behalf of the Council against the appellant. These applications are the subject of separate Decisions.

## The Notice

2. The requirements of the Notice do not follow directly from the allegation. Both parties agreed that to correct the notice by the deletion of '*and rear extensions, the hip to gable and rear dormer roof extension*' and substitution with '*side extension, part single and part two storey rear extension, hip to gable roof extension and rear dormer window*' would cause no injustice.
3. The alternative requirement of the Notice implies plans approved under Planning Permission 09/1441 were attached to it. The Council stated that the plans were

attached to the Notice and the appellant stated that only the planning decision was attached to the Notice. The appellant had been the applicant for that application and was therefore aware of it and the plans. I consider there would be no injustice if the Notice was corrected by deletion of reference to any attachment.

- Both parties also agreed that the deletion of 'it' and the substitution of 'the premises' within the alternative requirement of the Notice would provide clarity and would cause no injustice.

### **Ground c appeal**

- Planning permission for a single storey side and two storey side and rear extension to include an integral garage was granted in 2009<sup>1</sup>. However, the development which has been constructed includes a hip to gable roof extension and a rear dormer window.
- Although two separate building notices were submitted to the Council the first in relation to a single and two storey side and rear extension<sup>2</sup> and the second one for a gable end roof extension with rear dormer and two front rooflights<sup>3</sup>, the appellant confirmed that the development was carried out as one building operation.
- The development as constructed does not accord with the approved plans pursuant to the 2009 planning permission, as it includes a rear dormer and hip to gable extension which projects onto part of the roof of the side extension. However, the appellant seeks to claim that the hip to gable roof extension and the dormer elements were permitted development by virtue of Article 3 and Class B of Part 1 to Schedule 2 of the Town and Country Planning (General Development Order) 1995 as amended (GPDO).
- Class B permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof subject to, among other things, the limitation that the resulting roof space must not exceed the cubic content of the original roof space by more than 50 cubic metres. The interpretation of Class B, within the GPDO, states for the purposes of Class B "resulting roof space" takes into account any enlargement of the original roof space whether permitted by Class B or not. The GPDO does not differentiate between habitable roof volume and non-habitable roof volume.
- In this case the *resulting roof space* comprises the combined volume of the roof additions of all the elements of the development as built; therefore it includes the roof of the side/rear extension, the hip to gable extension and the dormer window. The Council estimated that the volume of the roof of the two storey side/rear extension is approximately 65.27 cubic metres. The appellant did not disagree with this calculation. Therefore the additional volume of the rear dormer and hip to gable extension, taken together with the side/rear extension would clearly exceed the original cubic content of the roof by more than 50 cubic metres and would thus not be permitted development under Class B of the GPDO.

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<sup>1</sup> Council reference 09/1441 granted on 29 July 2009.

<sup>2</sup> Council reference BN/10/02533/1 submitted on 10 March 2010 with a completion certificate dated 16 March 2011.

<sup>3</sup> Council reference BN/10/04163 submitted on 21 April 2010 with the stated description 'Proposed gable end roof extension and loft conversion under permitted development and addition of dormer window to rear roof and 2 no. rooflights to front roof'. The completion certificate for this was dated 3 February 2011.

10. For the reasons given above the development required planning permission and the appeal under ground (c) fails.

## **Deemed Planning Application**

### Main Issues

11. The main issue is the effect of the development on the character and appearance of the immediate area and the original dwelling.

### Reasons

12. The appeal site is located within a mainly residential part of the road, although nearby at the crossroads there is a commercial area with shops and services. Nos 27 and 29 are a pair of semi-detached dwellings within an area of predominantly semi-detached dwellings with gable features to the front and hipped roofs. There are some detached dwellings and opposite and to the south east of the appeal site, Nos 8 to 18, is a three storey block of flats with a mansard roof.
13. The Council have produced and, following public consultation, adopted Supplementary Planning Guidance 5: *Altering and Extending Your Home* (SPG) which provides guidance on residential extensions. The SPG advises that rear dormers should be no wider than half the width of the original roof plan and that hip to gable extensions will not normally be permitted due to the significant change to the appearance of the house and the streetscene that would result.
14. The side and flank elements of the extensions the subject of the Notice are clearly viewed along the street and from opposite the appeal site. The hip to gable element unbalances the pair of dwellings, Nos 27 and 29, and detracts from the established character of the immediate area. Furthermore, there is a poor juxtaposition between the hip to gable extension and the roof of the two storey side extension. The overall bulk of the additions, including the large rear dormer window, its poor design and the awkward interrelationship of the various elements detract from the character and appearance of the original dwelling and the street scene.
15. A number of properties within the immediate vicinity have been extended, some successfully others less so. However, the predominant characteristic of semi-detached hipped roof properties with gable features remains and the extensions as built at the appeal property detract from and harm that established character.
16. I appreciate that the appellant carried out the extensions to provide extra accommodation for his family, however the personal circumstances of the appellant do not outweigh the harm I have identified to the character and appearance of the original dwelling and the street scene.
17. In conclusion the extensions the subject of the Notice harm the character and appearance of the original dwelling and the street scene. This is contrary to SPG and saved Policies BE2 and BE9 of the Brent Unitary Development Plan 2004 which require developments to have regard to, and respect, their local context, make a positive contribution to the character of the area, and be of a scale, massing and height appropriate to their townscape location. For the reasons given above the deemed planning application fails.

## **Formal Decision**

18. I direct that the enforcement notice be corrected by:

- i. the deletion of *'and rear extensions, the hip to gable and rear dormer roof extension'* at Step 1 of Schedule 4 of the Notice and its substitution with *'side extension, part single and part two storey rear extension, hip to gable roof extension and rear dormer window'*;
- ii. the deletion of 'it' on the first line of Step 2 of Schedule 4 of the Notice and its substitution with *'the premises'*; and
- iii. the deletion of *'a copy of which is attached to this notice'* at alternative option of Step 2 of Schedule 4 of the Notice.

Subject to these corrections 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.

*Hilda Higenbottam*

Inspector

## **APPEARANCES**

### FOR THE APPELLANT:

Mrs J Han MSc CAAD	Agent for the Appellant
She gave evidence and called Mr Wong	Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Mr M Wickes	Director of Enforcement Service Ltd, instructed by Mr C Walker, Director of Planning for the Council
He called Mrs M Ferguson BSc (Hons)	Enforcement Planner with the Council

## **ADDITIONAL DOCUMENTS AND PLANS PRODUCED AT THE INQUIRY**

- 1 Drwg No 27/HAS/PA/001 Version A produced by the Council.
- 2 Certificate of Enforcement Notice Service produced by the Council.
- 3 Supplementary Planning Guidance 5: *Altering and Extending Your Home* and the adoption report relating to it produced by the Council.
- 4 Copy of the Enforcement Notice the subject of the appeal along with A3 copies of plans produced by the Council.
- 5 Bundle of emails produced by the appellant.
- 6 Planning Enforcement Initial Site Visit Form dated 4 June 2010 produced by the Council.
- 7 Transcript of R (oao Watts) v SSETR [2002] EWHC 993 (Admin) produced by the Council.