



## Appeal Decisions

Site visit made on 3 December 2019

**by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH**

**an Inspector appointed by the Secretary of State**

**Decision date: 15<sup>th</sup> February 2020**

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### **Appeal Ref: APP/B5480/C/19/3224804 (Appeal A)** **191 Northumberland Avenue, Hornchurch RM11 2HW**

- 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 Mrs N Sidhu against an enforcement notice issued by the Council of the London Borough of Havering.
  - The enforcement notice was issued on 15 February 2019.
  - The breach of planning control as alleged in the notice is:
    1. Deviation from approved plans, P0838.17; front extension not built in accordance with the approved plans.
    2. Without planning permission, the erection of a single storey rear/side extension to the dwelling.
  - The requirements of the notice are to:
    - 1) Demolish the rear/side extension; AND
    - 2) Remove the ground floor front extensions from the property in the area shown hatched in black on the attached plan; OR
    - 3) Alter the ground floor front extension in the area hatched in black on the attached plan, to conform with the attached plans of application P0838.17.
    - 4) Remove from the land, in the area shown outlined in black on the attached plan, all materials, rubble, machinery, apparatus and installations used in connection with or resulting from compliance with steps (1) to (3) above.
  - The period for compliance with the requirements is 3 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 (the Act). Since the development is exempt from the payment of fees, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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### **Appeal Ref: APP/B5480/W/19/3224491 (Appeal B)** **191 Northumberland Avenue, Hornchurch RM11 2HW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs N Sidhu against the decision of the Council of the London Borough of Havering.
  - The application Ref P1719.18, dated 15 November 2018, was refused by notice dated 10 January 2019.
  - The development proposed is front extension, porch, rear/side infill and change to side elevation loft window.
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### **Decisions**

1. It is directed that the enforcement notice be corrected by:
  - substituting "remedy any injury to amenity which has been caused by the breach" for "remedy any amenity which has been caused by the breach" in paragraph 4.1.

and varied by:

- deleting “3 months” and substituting “6 months” as the period for compliance in paragraph 5 due to the appeal succeeding under ground (g).
2. Subject to this correction and variation Appeal A is otherwise 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.
  3. Appeal B is dismissed.

### **The enforcement notice**

4. In paragraph 4.1, the notice refers to “remedy any amenity” whereas Section 173(4)(b) of the Act as amended provides that a purpose of an enforcement notice can be to “remedy any injury to amenity” caused by a breach. As this appears to be a simple typographical error, I am correcting the notice accordingly without causing any significant injustice to the parties.

### **Appeal A ground (a) and the deemed planning application; Appeal B**

#### *Main Issues*

5. The main issues in both appeals are the effects of the development on the character and appearance of the area and upon the living conditions of neighbouring occupiers.

#### *Reasons*

6. The appeal property is an end-of-terrace house in a predominantly residential area. While there is a variety of built form and design within the wider streetscene, the terrace in which the property sits consists of houses of broadly similar appearance. A continuous linear arrangement of fenestration on the ground and first floors along the terraced block contributes to its character, and this is reinforced by the simple design and horizontal lines of the modest mono-pitched roof above the ground floor door and windows of No 185. The similar minimalist and linear design of the mono-pitched roof to the appeal property front elevation approved under P0838.17 would be broadly in keeping with these features and would preserve the character and appearance of the setting.
7. Conversely, the large gable-ended double-pitched porch roof and hipped bay window roof of the appeal development detrimentally break up the linear style of front elevations within the terrace and are experienced as jarringly contrasting features within the local context. Additionally, the tops of the roofs terminate very close to the windows at first floor level causing visual conflict with the linear pattern of fenestration along the terrace. While I acknowledge that other properties within the street may have similarly-designed front extensions, it is the location of the appeal development within the context of the terraced block in which it is located which causes it to be unacceptably incongruous.
8. The appeal development as built results in a substantial amount of built form extending to the rear and side of the property. The overall appearance, as

- experienced from the rear garden environment behind the residential properties, is of a large bulky structure enveloping the original dwelling house to a significant extent and almost entirely filling the gap between it and No 193. Indeed, the extension goes almost as deep as the end of No 193's rear garden and runs close to the boundary for a significant portion of it.
9. As a consequence, the rear and side extension appears visually intrusive and disproportionate to the original dwelling causing significant harm to the character and appearance of the area. Further, its relationship with No 193 is significantly harmful to the outlook from that dwelling, as occupiers experience fairly close views of the significant expanse of built form which exists for almost the entire depth of their rear garden. Although single-storey, the extension is sufficiently visible above the boundary treatment and sufficiently close to it to cause to cause an unacceptable sense of enclosure to the occupiers of No 193 when experienced from the rear windows and garden of that property. This impact is heightened further due to the rear elevation of no 193 being angled slightly towards the appeal development and set forward of the rear building line of the terrace, resulting in greater views of the appeal development than would otherwise be the case. This causes a materially adverse and unacceptable effect on outlook from the property, despite more open views in other directions.
  10. For all of the above reasons, the appeal development in respect of Appeals A and B causes significant harm to the character and appearance of the area and upon the living conditions of neighbouring occupiers. As such it is in conflict with Policy DC61 of the London Borough of Havering Core Strategy and Development Control Policies Development Plan Document (2008), as supported by the Council's adopted Residential Extensions and Alterations Supplementary Planning Document (2011), which seeks to protect the character and appearance of places and living conditions of occupiers.

### **Appeal A ground (f)**

11. It is clear from the way that the notice requirements have been drafted that the Council is pursuing the purpose of remedying the breach of planning control resulting from the construction of the rear/side extension, by its demolition (paragraph 5, step 1), rather than remedying injury to amenity.
12. The appellant says that this step is excessive, in that it is argued that the appeal site benefits from permitted development for a 6m rear extension according to details provided to the Council on 29 September 2017 under reference Y0345.17. The Council, I assume having followed the statutory procedure<sup>1</sup> including notification of neighbours, issued a decision on 3 November 2017 that its prior approval of the scheme was not required.
13. However, it is statutory condition in such cases that the development must be carried out in accordance with the information provided to the Council unless it otherwise agrees with the developer in writing. The development was not built as per the submitted scheme and the Council did not agree to it. Also, significantly, permitted development rights do not apply in connection with an existing building where the building operations involved in the construction of

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<sup>1</sup> Article 3(1), Schedule 2, Part 1, Class A, Condition A.4, The Town and Country Planning (General Permitted Development) (England) Order 2015

that building are unlawful<sup>2</sup>, as in this case where development has been carried out without the required planning permission.

14. Further, regardless of any lack of neighbour objection and with reference to my comments under ground (a), the long rearward projection would run almost the entire length of No 193's garden. Notwithstanding the removal of the side element, the large extension would be set close to the property boundary along its length and especially towards its rear due to the inward slant of the boundary. These features, and the position and slight orientation of No 193's rear elevation towards the rear extension would unacceptably harm the outlook from the dwelling's rear windows and from its garden.
15. For these reasons, I give very limited weight to the Y0345.17 scheme as a "fall-back position" or as an alternative to the requirement of the notice to demolish the rear/side extension. Therefore, I will not use my powers to grant planning permission for whole or part of the development under ground (a) of Appeal A or in respect of Appeal B, and I will not vary the notice under ground (f) as no lesser steps are possible to remedy the breach of planning control than as required in the notice. Therefore, the appeal under ground (f) fails.

### **Appeal A ground (g)**

16. The appellant has said that the compliance period of 3 months is too short to raise funds, identify and appoint contractors, carry out the works and to otherwise make necessary arrangements. I have carefully considered that submission, together with the Council's argument that the compliance period stated in the notice is reasonable and taking into account the ongoing harm that the development causes to the character and appearance of the area and to the living conditions of neighbours.
17. Compliance with step 1 and either step 2 or step 3 of the notice requirements would involve reasonably substantial works. The extensions as occupied are integral parts of the home and alternative arrangements would need to be made by the occupiers to facilitate the works. The compliance period therefore needs to incorporate sufficient time to arrange and complete the substantial works and to make necessary domestic living arrangements. The appellant has suggested that a compliance period of 12 months is reasonable but I consider this excessive when balanced against the harm caused by the development.
18. For these reasons, I will vary the compliance time to 6 months. The appeal therefore succeeds on ground (g) and I will vary the notice accordingly.

### **Conclusion**

19. For the reasons given above I conclude that Appeal A should not succeed except to the limited extent on ground (g). I shall uphold the enforcement notice with a correction and variation and refuse to grant planning permission on the deemed application.
16. For the reasons given above I conclude that the Appeal B should be dismissed.

*Andrew Walker*

INSPECTOR

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<sup>2</sup> Article 3(5), The Town and Country Planning (General Permitted Development) (England) Order 2015