

Meeting:	Development Control Committee
Date:	Wednesday 15 March 2006
Subject:	190 Whittington Way, Pinner
Responsible Officer:	Group Manager Planning and Development
Contact Officer:	Glen More
Portfolio Holder:	Planning, Development and Housing
Enclosures:	Site Plan
Key Decision:	No
Status	Part 1

Section 1: Summary

This report relates to the unauthorised construction of a rear extension at 190 Whittington Way, Pinner, and seeks authority to initiate enforcement action for its removal.

The rear extension, by reason of its excessive bulk and rearward projection, is unduly obtrusive, resulting in loss of light and overshadowing, and is detrimental to the visual and residential amenities of the occupiers of the adjacent property. The development is contrary to policies SD1, D4 and D5 of the Harrow Council Unitary Development Plan 2004 and C1, C2 and C7 Supplementary Planning Guidance "Extensions, A Householders Guide". It is recommended that an enforcement notice be served.

Decision Required

Recommended (for decision by the Development Control Committee)

The Director of Legal Services be authorised to:

- (a) Issue an Enforcement Notice pursuant to Section 172 of the Town and Country Planning Act 1990 requiring:
 - (b) (i) The demolition of the unauthorised single storey rear extension.
 - (ii) The permanent removal of the materials arising from compliance with the

first requirement (b) (i) above from the land.

(c) [(b)] (i) and (ii) should be complied with within a period of three (3) months from the date on which the Notice takes effect.

(d) Issue Notices under Section 330 of the Town and Country Planning Act 1990 (as amended) as necessary in relation to the above alleged breach of planning control.

(e) Institute legal proceedings in event of failure to:

(i) supply the information required by the Borough through the issue of Notices under Section 330 of the Town and Country Planning Act 1990;

and/or

(ii) comply with the Enforcement Notice

Reason for report

To ensure that the alleged breach of planning control is ceased in the interests of amenity.

Benefits

To protect and enhance the environment of the Borough.

Cost of Proposals

None at this stage.

Risks

Any enforcement notice may be appealed to the Planning Inspectorate.

Implications if recommendations rejected

Failure to take action would mean that the amenities of the neighbouring residents would continue to be harmed.

Section 2: Report

Brief History, Policy Context (Including Previous Decisions)

2.1 LBH/28844 First floor front extension an entrance porch, granted 11 April 1986.

- 2.2 WEST/594/94/FUL Single storey rear extension, granted 8 November 1994.
- 2.3 P/1241/04/DCE Certificate of Lawful Existing Use: Single storey rear conservatory, refused 6 September 2004. Reasons for refusal:
- 1) This is a semi-detached single family dwellinghouse. The applicant asserts that a single storey rear conservatory built to the rear of an existing single storey rear extension at the site has been in excess of 4 years and is therefore lawful.
 - 2) Two invoices are produced for the construction of the 'original' timber conservatory and for the new UPVC replacement, which the applicant describes as a refurbishment of the original. The basis of this application is that the original timber conservatory was built in 1996, and has been "refurbished", not removed or replaced.
 - 3) He also produced four affidavits by individuals who have visited the address since 1999 or for the last seven years for musical evenings, and state they have noticed a conservatory at the rear of the existing French doors. These affidavits are lacking in detail and during interview Mr Budhdeo and Mr Langston could only speak of vague recollection of a window at the rear of the lounge extension. Neither had seen the structure from the outside.
 - 4) On further investigation the following information has come to light:
 - (a) Aerial photograph in 2001 showing the site and no additional conservatory on the rear.
 - (b) Letter from Mrs Veevers, whose father owned 192 Whittington Way, and has resided at the address from 1999 following her father's death. She states that no such conservatory has existed, she has a video taken in 1999 showing no conservatory, and produces a photograph dated 26.08.03 showing the reflection of the extension at No. 190 in background and the absence of any conservatory attached to it.
 - 5) In the circumstances, the Local Planning Authority does not consider, on the balance of probability that the burden of proof has been satisfied and, in view of the conflicting and ambiguous evidence, the application is refused.

Background Information

- 2.4 The property is located on the southern side of Whittington Way, Pinner and comprises a two-storey semi detached dwellinghouse. The Council's planning history shows that there have been a number of alterations made to the dwellinghouse. There is a single storey rear extension, which was granted planning permission. An additional rear extension has been constructed to the rear of the existing single storey extension, bringing the total rearward projection of both extensions to 4.90 metres. The unauthorised rear extension is situated on a raised concrete pad, bringing its height to 3.4m, higher than the 3m maximum height indicated in paragraph C7 of the Council's Supplementary Planning Guidance "Extensions, A Householders Guide". The unauthorised extension spans the full width of the dwellinghouse and is located right up to the boundary of 192 Whittington Way.

2.5 The following policies are relevant on this occasion:

-Policy D4 *The Standard of Design and Layout* of the Harrow Council Unitary Development Plan 2004.

-This policy is reinforced in the more general Policy, SD1 *Quality of Design* of the Unitary Development Plan 2004.

-Policy D5 *New Residential Development – Amenity Space and Privacy* of the Harrow Council Unitary Development Plan 2004.

Section C of the Harrow Council's Supplementary Planning Guidance (SPG) *Extensions: A householders guide* states: -

C1 Rear extensions have the greatest potential for harm to the amenities of neighbouring residents. Their impact on neighbouring property and the character and pattern of development needs careful consideration. Rear extensions should be designed to respect the character and size of the house and should not cause unreasonable loss of amenity to neighbouring residents

C2 A single storey rearward projection, adjacent to a boundary, of up to 3 metres beyond the rear main wall of adjacent semi-detached or detached houses would normally be acceptable.

C7 The height of single storey rear extensions should be minimised to restrict the impact on the amenities of neighbouring residents. Subject to site considerations, the finished height of an extension abutting a residential boundary should be a maximum of 3 metres on the boundary for a flat roof, and for a pitched roof 3 metres at the mid-point of the pitch at the site boundary.

2.6 The single storey rear extension allowed under planning permission. WEST/594/94/FUL has been measured on site as being 82 cubic metres. The unauthorised rear extension has a total volume of 22.51 cubic metres. To constitute permitted development, the cubic content of the resulting building works cannot exceed 70 cubic metres. As a result the unauthorised building works cannot be considered to constitute permitted development and therefore require planning permission. The two extensions have a total rearward projection of 4.90 metres. The Harrow Council's *Extensions: A Householders Guide*, Supplementary Planning Guidance states a single storey rearward projection, adjacent to a boundary, of up to 3 metres beyond the rear main wall of the adjacent semi-detached or detached houses would normally be acceptable in this instance the rearward projection exceeds the acceptable depth by 1.90 metres. The unauthorised rear extension is situated on a raised concrete pad. The height of the rear extension normally exceeded the permitted 3 metre finished height. The additional extension does not respect the character and size of the houses or development within the locality and increases the rear projection to an unacceptable degree. It is not

considered that the additional extension complements its surroundings and does not have a satisfactory relationship with adjoining buildings. It is not considered that the extension has regard to the scale and character of the surrounding environment. Therefore the extension is considered unacceptable.

The alleged breach of planning control

- 2.9 Without planning permission, the erection of a single storey rear extension to the rear of the approved single storey rear extension.

Reasons for issuing the notice

- 3.0 It appears to the Council that the above breach of planning control occurred within the last 4 years.
- 3.1 The extension, by reason of excessive bulk and unsatisfactory design, is unduly obtrusive with inadequate space about the buildings and detracts from the established pattern of development and character of the locality. Its excessive bulk and rearward projection results in a loss of light and overshadowing, and it is detrimental to the visual and residential amenities of the occupiers of the adjacent properties, contrary to the following policies SD1, D4 and D5 of the Harrow Council Unitary Development Plan 2004 and C1, C2 and C7 Supplementary Planning Guidance "Extensions, A Householders Guide".
- 3.2 The Council does not consider that planning permission should be granted because planning conditions cannot overcome these problems.

Consultation

- 3.3 -Ward Councillors copied for information
-Harrow Council Legal Services
-Harrow Council Financial Services

Financial Implications

- 3.4 None.

Legal Implications

- 3.5 As contained in the report.

Equalities Impact

- 3.6 None.

Section 17 Crime and Disorder Act 1998 Considerations

- 3.7 None

Section 3: Supporting Information/ Background Documents

LBH/28844 First floor front extension an entrance porch

WEST/594/94/FUL Single Storey Rear Extension.

P/1241/04/DCE Certificate of lawful existing use: Single storey rear conservatory.