



Appeal Decisions

Site visit made on 5 February 2007

by **Nigel Burrows BA MRTPI**

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

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Date 23rd February 2007

Appeal Ref: APP/P5870/C/06/2025913

The Avenue Nursing Home, 32 The Avenue, Cheam, Surrey, SM2 7QB

- 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 J Patel against an enforcement notice issued by the Council for the London Borough of Sutton.
- The Council's reference is EC06/0179.
- The notice was issued on 29 August 2006.
- The breach of planning control as alleged in the notice is without planning permission, erection of first floor extension to the rear of the property in the approximate position marked with a blue line on the attached plan.
- The requirements of the notice are:
 1. Remove the first floor extension to the rear of the property.
 2. Remove from the land all building material and rubble arising from compliance with requirement 1 above and restore the roof slope of the building to its condition before the breach took place using materials which (so far as reasonably practicable) match the existing building.
- The period for compliance with the requirements is 14 weeks.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a variation.

Appeal Ref: APP/P5870/A/06/2025930

The Avenue Nursing Home, 32 The Avenue, Cheam, Surrey, SM2 7QB

- 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 Mr J Patel against the decision of the Council for the London Borough of Sutton.
- The application (ref: A2006/56385/FUL), dated 2 August 2006, was refused by notice dated 5 September 2006.
- The development proposed is the erection of a rear extension at first floor level.

Summary of Decision: The appeal is dismissed

Procedural Matters

1. The Council points out the original planning application drawings were inaccurate because the eaves of the first floor rear extension, as built, were higher than indicated on these plans. However, the appellant has forwarded additional drawings in order to correct these inaccuracies, and I have taken these into account in my consideration of the appeals.
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The Section 174 ground (a) appeal, and the Section 78 appeal

2. I consider the main issue relating to these appeals is the effect of the development on the character and appearance of the building and the surrounding area.
3. The development plan includes the London Borough of Sutton Unitary Development Plan (UDP), adopted in 2003. Policy G/BE1 seeks to ensure new development is of a high standard of design and respects local character. Policy BE1 has similar objectives. Policy BE2 requires the architectural design and detailing of development to respect and positively contribute to the existing townscape. The Council confirms the property is within the defined South Cheam Special Policy Area. Policy BE39 indicates development should respect and where possible enhance the character and appearance of the Special Policy Area.
4. The nursing home occupies a substantial plot on the corner of The Avenue and Northey Avenue. It is a large two-storey building with accommodation in the roof space. The extensive hipped roof of the original building is an important element of its architectural composition. The property is within a predominantly residential area characterised by large detached dwellings situated in extensive plots; their mature landscaped gardens contribute to their pleasant setting and to the attractive character of the Special Policy Area. The property is bounded to the rear by a bungalow fronting Northey Avenue; directly opposite this bungalow is St Andrew's Church, which the Council confirms is a Grade 2 Listed Building.
5. I consider the flat roof profile of the unauthorised first floor extension has unbalanced the overall symmetry of the rear elevation of the building. The disposition of the window on its rear wall accentuates this adverse visual impact. The development constitutes an awkward and unsympathetic enlargement that significantly detracts from the architectural composition of the building. Whilst the extension is on the rear elevation of the building, it can readily be seen from the public realm. I observed that its incongruous nature is particularly noticeable from Northey Avenue and from the entrance to St Andrew's Church, despite the intervening boundary enclosures. A ground floor flat roof extension also exists to the rear of the main building, but this is generally less intrusive than the extension subject of these appeals.
6. The appellant states the property is not a listed building and it is not in a conservation area. However, one of the objectives of the relevant adopted policies is to safeguard and enhance the quality of the built environment and the South Cheam Special Policy Area. The appellant has referred to inspection reports produced by the Commission for Social Care Inspection, and indicates that whilst improvements have been made to the standard of accommodation provided, further work is essential to meet current standards. The appellant emphasises that the extension was essential to meet fire safety regulations. Be that as it may, to my mind such considerations do not justify the erection of an unsympathetic extension that detracts from the architectural composition of the building and the surrounding area.
7. The Council's concern to achieve high quality design is broadly consistent with the Government's objectives for the planning system. Planning Policy Statement 1 'Delivering Sustainable Development' states that design which is inappropriate to its context, or which fails to take the opportunities available to improve the character and quality of an area, should not be accepted. Taking all these factors into account, I conclude the unauthorised first floor extension significantly harms the character and appearance of the building and the surrounding area, and it conflicts with the objectives of UDP policies G/BE1, BE1, BE2 and BE39. Accordingly, the Section 174 ground (a) appeal and the Section 78 appeal fail.

Other Considerations

8. Interested persons allege, amongst other things, the extension results in a loss of daylight, sunlight and privacy to the occupiers of 30 The Avenue, and a loss of outlook and privacy to the occupiers of the bungalow to the rear. The Council has not refused permission for these reasons, nor has enforcement action been taken on these grounds. Moreover, I am not convinced the extension has resulted in additional overshadowing or overlooking to the extent that it seriously detracts from the living conditions of the neighbouring residents. However, its incongruous nature is readily apparent to these residents, thereby reinforcing my overall concern regarding its impact on the main building and the character of the area.

The Section 174 ground (g) appeal

9. The appellant indicates the period for compliance with the notice should be extended from 14 weeks to 12 months, as alternative arrangements would need to be investigated for a means of escape in the event of fire and a further planning application may also be required. I am not convinced the period requested would be necessary to arrange for the physical removal of the extension. However, I accept the appellant is likely to need more time to comply with the notice given the need to minimise any disruption to the continued operation of the nursing home, and in order to allow a satisfactory alternative means of escape to be investigated. I shall vary the period for compliance to six months, which should give the appellant adequate time to explore the options available. Should the appellant face any unforeseen circumstances, then S.173A(1)(b) of the Act enables the Council to extend the period for compliance at its discretion. The ground (g) appeal succeeds to this limited extent.

Conclusion

10. For the reasons given above and having regard to all other matters raised, I conclude the Section 174 appeal should not succeed. I shall uphold the notice with a variation and refuse to grant planning permission on the deemed application. I further conclude the S.78 appeal should be dismissed.

Formal Decisions

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11. I direct that paragraph 6 of the enforcement notice be varied by the deletion of ‘14 weeks’ and the substitution of ‘6 months’ as the period for compliance with the requirements of paragraph 5.
12. Subject to this variation, I dismiss the appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

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13. I dismiss the appeal.

Nigel Burrows

INSPECTOR