



Planning Committee

18th August, 2010

Report from the Chief Planner

Wards Affected: Preston

Report Title: 19 Brook Avenue

1.0 Summary

- 1.1 Members deferred this report from consideration from the meeting on 16th March, 2010 for a site visit to enable them to assess the development and objections raised to it.
- 1.2 Members considered the matter again on 14th April, 2010 following the site visit and resolved the matter be deferred pending the outcome of an Inspection by the Council's Building Control department.
- 1.3 This report deals with the extensive planning and enforcement history of the extensions to 19 Brook Avenue, Wembley HA9 8PH and updates members on the current enforcement position.]

1.4 Recommendations

- 2.1 To note that the part single-storey, part two-storey extension to side and rear of dwellinghouse is considered to have been re-built in accordance with planning permission 99/2269.
- 2.2 To note that the dormer window has been built under permitted development and does not require planning permission.
- 2.3 To agree that no further planning enforcement action be taken in respect of the above extensions.

3.0 History

- 3.1 A Lawful Development Certificate was granted under reference 99/1922 on 18th October, 1999 for the formation of gable end to the roof and installation of rear dormer window and front roof-light to provide habitable room within roof space.
- 3.2 Planning permission was granted under reference 99/2269 on 16th February, 2000 for the erection of a part single-storey, part two storey extension to the side and rear of the house.
- 3.3 Work commenced on implementing planning permission 99/2269 in 2001. However it was not built in accordance with the approved plans and consequently an enforcement notice was issued on 6th October, 2001 which required the extension to be removed. An appeal was made against the enforcement notice and the appeal was dismissed on 28th May, 2002 with a variation in the requirements of the enforcement notice to require that the extension should be modified to accord with the plan approved in planning permission 99/2269.
- 3.4 The compliance period of the enforcement notice was 6 months and this meant that the enforcement notice was due to be complied with by 28th November, 2002.
- 3.5 The enforcement notice was not complied with and the Council commenced prosecution proceedings against the owner on 27th February, 2003. The owner was convicted of breaching the enforcement notice on 30th May, 2003 and order to pay a fine of £1,500 and the Council's costs of £1,500.
- 3.6 In the meantime, planning applications were made to attempt to remedy the situation but these were refused on 7th October, 2002 and 21st February, 2003 (References 03/0375 and 02/2111)
- 3.7 Following the refusal of these two planning applications, the owner commenced works on reducing the size of the extension. However he did not reduce it in size sufficiently enough to comply with the approved plans and further prosecution proceedings were brought against him on 2nd February, 2005. The owner was again convicted of breaching the requirements of the enforcement notice on 18th November 2005 and ordered to pay a fine of £3,000 and costs of £1,470
- 3.8 At about the same time, he built a dormer window which was not part of the original approval and could not be considered permitted development at that time as the property had already been significantly extended. Consequently, the Council issued another enforcement notice on 28th January, 2005. An appeal against this enforcement notice was dismissed on 2nd February, 2006 and this notice was required to be complied with by 2nd May, 2006.

- 3.9 The project was then taken over by the owner's son. He claimed that he was unable to implement the enforcement appeal decision of the Planning Inspector dated 28th May, 2002 as it was not possible to alter the extension, as currently built, to accord with the approved plans.
- 3.10 Therefore a new further application (reference 05/0186) was made in 2005 to make further modifications to the approved plans. Officers had lengthy discussions with him during the processing of this application which resulted in the case being reported to Planning Committee on 12th December, 2006 with a recommendation for approval. However members decided to refuse the application. He appealed this refusal and the appeal was dismissed on 18th July, 2007. Following this refusal, another application was submitted on 15th November, 2007 (reference 07/3232). This was reported to committee with a recommendation for approval but was refused on 4th June, 2008.
- 3.11 Following these decisions, the owner decided to knock down the whole extension and dormer window in its entirety but keep the foundations in place. Thus the extension and dormer window enforced against no longer existed and effectively the enforcement notice was complied with as of August, 2008.
- 3.12 The owner then rebuilt the dormer window under permitted development. As the property no longer had any extensions to it, he was able to build the dormer to reflect that previously granted a Certificate of Lawfulness in 1999 (reference 99/1992.)
- 3.13 The dormer window was completed before work was commenced on rebuilding the extension in accordance with the original planning permission (99/2269). Enforcement Officers have monitored the rebuilding works and it is generally in accordance with the original approved plans.
- 3.14 Neighbours have raised three main issues regarding the rebuilding work and these are as follows:-

- **Distance between the extension at 19 Brook Avenue at the boundary of No. 18.**

When measured to the front of the property the distance between the side brick walls is approximately 11cm. This reflects the approved plans. The side extension at 18 Brook Avenue has a coping stone on top of the side wall. This coping stone protrudes approx 1cm beyond the side wall. This results in the gap being reduced in some instances. The approved plan does not mark the next door neighbour's property and therefore it is unclear if the boundary line is the side wall of the extension at 18 Brook Avenue or the edge of the coping stone. In any event your officers do not feel that any such minor variations are significant enough for them to be considered a variation from the approved plan.

- **Parapet Wall and Gutter**

The approved plans show an eave projection which is not detailed enough to show a gutter. Last autumn, a parapet wall was built which was a

departure from the approved plans. The owner was advised that planning permission was required for this deviation from the approved plan.

Subsequently he chose to remove the parapet wall and install a traditional 10cm gutter. The owner of 18 Brook Avenue considers that this gutter overhangs his boundary. Your officers consider that as there is an approximate 10cm gap between the extension at 18 Brook Avenue and 19 Brook Avenue, there should be room for this gutter without overhanging the boundary, though with fixings, the gutter may exceed 10cm by a few millimetres. However the position of the boundary is unclear and both the extensions at 18 and 19 Brook Avenue are not built in an exact straight line and at one point the separation distance reduces to some 9cm and in other parts it is as much as 11cm. It is impossible to tell whether the gutter as currently installed overhangs the boundary or not.

The Building Control Service has advised that the guttering has been amended since the previous Planning Committee on 14th April, 2010. The features which made it non-compliant in the past have, it would appear, been addressed. The neighbour's plastic sheeting barrier prevents a perfect view of the gutter from several angles. However Building Control Officers feel that they could see enough of the gutter to make a decision on it. The Building Control Officer looked at this gutter and its relationship with the tiles and concluded there are no longer grounds to suggest contraventions of the building regulations - the guttering does not fall away steeply at the front or rear as previously and the tiles give the appearance of sitting over the gutter in a reasonable fashion. The gutter system has also been connected to that of the main house.

- **Use of the garage as a habitable room**

The neighbours have expressed concern that the garage will be converted into a habitable room. The owner has informed officers that he may wish to convert the garage in the future and if so he will make a planning application for this conversion. However at the time of writing this report, the room is empty and could be used as a garage. The owner and the neighbours have been advised that the Council's policies normally permit the conversion of garages provided the front garden area is sufficiently landscaped and is designed to accommodate parking for two vehicles.

- **The paving over the front garden area**

The majority of the front garden has been paved over with the exception of a small area of grass. This amounts to permitted Development as provision has been made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse as required by the general permitted development rules. As such your officers are of the opinion that the hard surface is lawful and does not require planning permission.

- **Occupation of the property**

At the end of July 2010, the property was being occupied by one large family. It has been inspected by Planning Enforcement Officers who have confirmed that it is not in use as a House in Multiple Occupation.

- 3.16 The dormer window was constructed under permitted development and accords to the Certificate of Lawfulness that was granted under reference 99/1992 and the extension now accords to the planning permission that was approved under reference 99/2269.
- 3.17 Even though the planning permission was granted approximately 10 years ago, Brent's guidance has not changed in that time in a way which would mean that that original approval would not still be considered acceptable today in the circumstances of the design of the building. In particular, the original appearance and character of the semi-detached house was significantly changed by the erection of 3 adjoining houses in the 1980's. However, this does not mean that its relationship to the unattached No 18 should be treated differently than normal policy.
- 3.18 The Certificate of Lawfulness granted in 1999 would also have been permitted today. Indeed the rules on dormer windows are now less strict than they were 11 years ago.

4.0 Conclusions

- 4.1 The extension and dormer have finally been built in accordance with the planning permission and are not in breach of planning control. The gutter is satisfactory and is similar to that found on other properties within the street. The premises are being used for their lawful purpose as a single family dwelling. Members are therefore asked to endorse this report and agree that no further planning enforcement action should be taken at the premises in respect of these particular extensions or its use.

5.0 Financial Implications

- 5.1 If further enforcement action were pursued, Officer's opinion is that the Planning Inspectorate may consider an award of costs on any appeal made.

6.0 Legal Implications

- 6.1 None Specified

7.0 Diversity Implications

- 7.1 None Specified

Background Papers

Planning Applications: 07/3232, 05/0186, 03/0375, 02/2111, 99/2269,

Certificate of Lawfulness Application: 99/1922

Enforcement Appeal Decisions: E/05/0039, E01/0064

Contact Officers

Any person wishing to inspect the above papers should contact Tim Rolt,
Planning Enforcement Manager, Tel: 020 89375242 Email:
tim.rolt@brent.gov.uk

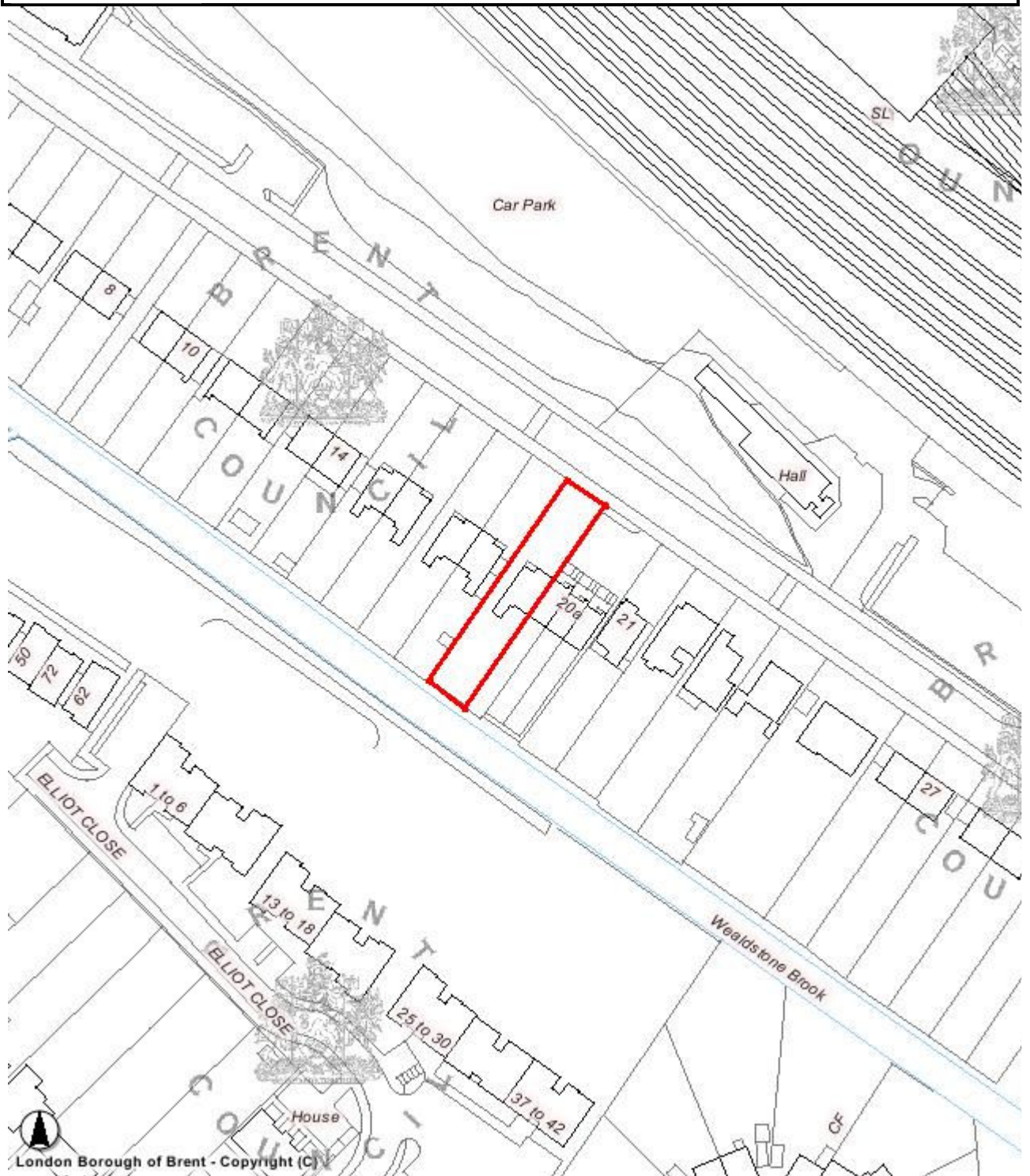
Chris Walker
Chief Planner



Planning Committee Map

Site address: 19 Brook Avenue, Wembley, HA9 8PH

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