

Appeal Decision

Site visit made on 2 November 2016

by Mr J P Sargent BA(Hons) MA MRTPI

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

Decision date: 18 November 2016

Appeal Ref: APP/J0540/C/16/3153646

1116 Bourges Boulevard, Millfield, Peterborough PE1 2AW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Hifsa Taimour against an enforcement notice issued by Peterborough City Council.
- The notice was issued on 6 June 2016.
- The breach of planning control as alleged in the notice is the erection of an extension to the rear of the dwelling.
- The requirements of the notice are
 - i) Reduce the height of the extension so that the eaves are no higher than the eaves of the single storey existing building to which it adjoins
 - ii) Revise the extension so that no part, including the plinth and gutter, extends into the neighbouring property at No 118 Bourges Boulevard
 - iii) Revise the extension so that no part is more than 3m from the original rear wall of the 2-storey part of the dwelling
 - iv) Revise the side windows of the extension so they may not be opened in perpetuity.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Act as amended. The application for planning permission deemed to have been made under section 177(5) of the Act is also to be considered.

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

The notice

1. Step 5(ii) should refer to 1118 Bourges Boulevard. I consider no party would experience any prejudice if the notice was corrected accordingly.
 2. The notice requires the unauthorised extension to be re-configured rather than removed. However, the Appellant may not wish to modify it in that way as its resultant arrangement may not suit her purposes, but she would nonetheless be compelled to make those modifications as otherwise she could be liable to prosecution. Therefore, as an alternative, the notice should be varied to give her the option of demolishing the extension if she wishes. I accept that demolition could be construed as being more onerous than the required works, but this need not be so in the circumstances described, and adding this option would not take away or diminish what she is allowed to do under the notice at present. I also consider that demolition is likely to take less time than the required alterations and so the period for compliance need not be changed. Therefore the Appellant's position would not be prejudiced by varying the notice in this way.
-

Main Issue

3. The main issue in this case is the effect of the works on the living conditions at 1118 Bourges Boulevard.

Reasons

4. This notice relates to a mid-terraced property, which has a part 2-storey/part single storey wing that extends from the main rear elevation of the building. A similar arrangement is found at 1118 Bourges Boulevard next door, and the 2 wings used to be separated by narrow yards, one in each property. It is reasonable to assume that between these would have been a fence or wall up to 2m in height. However, at No 1116 the yard from the main rear elevation to the end of the wing (a distance of some 5.45m) has been enclosed by the single storey extension subject of this notice.
5. On the main rear elevation of No 1118 at ground floor level is a window to a principal room that looks along the yard area. The outlook from this window has in the past no doubt been affected by the boundary treatment. However, I consider that the additional height of this relatively long extension means the works subject of the appeal now enclose it to a far greater degree. As a result, they appreciably reduce the amount of day light in that room and the outlook it provides, thereby unreasonably harming the living conditions enjoyed by its occupiers.
6. There is a further ground floor window on the side elevation of the rear wing at No 1118, which I was told serves a kitchen. However, the outlook and daylight experienced in that room would already have been affected by the wing at the Appellant's house and the boundary treatment, and so any additional effect resulting from the works is not unreasonable.
7. The Council also said the works caused unacceptable overlooking of No 1118. At the time of my visit the side windows of the extension before me were high-level and could be opened, though I am mindful that reducing the eaves would lower their height. I am also aware that although they were now fitted with obscured glazing the notice did not require this but rather stipulated only that they need to be fixed shut. Consequently, even if there was compliance with the notice there could still be overlooking of No 1118 if the glass type were to be changed and so, by comparison, the extension before me does not cause an unreasonable additional loss of privacy.
8. In assessing this matter I am mindful the Appellant referred to what she considered to be similar extensions elsewhere in the vicinity. However I am unaware of the circumstances behind each of those developments and so consider they cannot lead me to different findings in this instance. Furthermore, while the Appellant has offered to lower the extension, presumably in line with the Notice, that does not affect my consideration of the works before me.
9. Accordingly I conclude the works adversely affect the living conditions at 1118 Bourges Boulevard by reason of their effect on day light and outlook, in conflict with Policy PP3 in the *Peterborough Planning Policies Development Plan Document*. Therefore the appeal under ground (a) is dismissed and the application deemed to have been made under section 177(5) of the Act as amended is refused.

Decision

10. The notice is corrected and varied by the deletion of Paragraph 5 and its replacement with

‘Either

Demolish the extension and remove all resultant materials from the land

or

- i) Reduce the height of the extension so that the eaves are no higher than the eaves of the single storey existing building to which it adjoins;
- ii) Revise the extension so that no part, including the plinth and gutter, extends into the neighbouring property at 1118 Bourges Boulevard;
- iii) Revise the extension so that no part is more than 3m from the original rear wall of the 2-storey part of the dwelling;
- iv) Revise the side windows of the extension so they may not be opened in perpetuity.’

11. Subject to this correction and variation 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 Act as amended.

J P Sargent

INSPECTOR