

Appeal Decision

Site visit made on 1 November 2016

by Andrew Dale BA (Hons) MA MRTPI

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

Decision date: 30 November 2016

Appeal Ref: APP/N4720/C/16/3148817

Land at 16 Kingswear Garth, Austhorpe, Leeds LS15 8LS

- 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 David Richardson against an enforcement notice issued by Leeds City Council.
- The enforcement notice was issued on 22 March 2016 under ref. 13/00995/UHD3.
- The breach of planning control as alleged in the notice is set out as follows:
"Without planning permission a plastic white clad first floor extension has been constructed to the rear of the property."
- The requirements of the notice are set out as follows:
"Step 1:
Dismantle the unauthorised first floor rear extension in its entirety and make good the single storey extension and rear elevation of the property.
Step 2:
Remove all materials in relation to the erection of the unauthorised first floor rear extension and all debris resulting from the demolition operations."
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the ground set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended falls to be considered.

Decision

1. 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 1990 Act as amended.

Background and matters of clarification

2. Nos 14 and 16 Kingswear Garth comprise a pair of semi-detached houses with a hipped roof and are situated within a residential area. The front and side walls of no. 16 have been given a Tyrolean finish.
 3. The appeal and the enforcement notice relate to a first floor rear extension at no. 16 which has been clad with white uPVC walling panels and polycarbonate roofing sheets. The measurements taken and agreed by the parties at my site visit revealed that the first floor rear extension has an internal depth of about 2.40 m and an external depth of about 2.59 m. It has been fixed on top of a brick-built ground floor rear extension, is reached through a bedroom and, as
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clarified in the appellant's final comments, is intended to be a sunroom/greenhouse/conservatory.

4. Reading the appellant's representations, he is clearly aggrieved at the way he has been treated by compliance officers at the Council. Whilst these are matters of importance to the appellant, if the appellant is dissatisfied with the service provided or the procedural approach taken by the Council, those concerns can be addressed by separate means if necessary. My focus in this case must be on the ground (a) appeal which involves assessing whether planning permission ought to be granted for what is alleged in the notice.

The appeal on ground (a) and the deemed planning application

5. Reading the reasons given in the notice for its issue, the main issues in this case are the effects of the extension upon the character and appearance of the house and its immediate surroundings and upon the living conditions of the occupiers of no. 14 Kingswear Garth with particular reference to outlook.
6. Policy P10 of the Council's Core Strategy (CS) seeks to provide good design for all new developments. Policy BD6 of the Leeds Unitary Development Plan Review (UDP) states that all alterations and extensions should respect the scale, form, detailing and materials of the original building. UDP Policy GP5 expects that development proposals should, amongst other things, resolve detailed planning considerations (including design) and seek to avoid problems of environmental intrusion and loss of amenity.
7. As well as those development plan policies, my decision takes into account all other material considerations including the Council's Householder Design Guide Supplementary Planning Document (SPD) and the National Planning Policy Framework (the Framework). The development plan policies and the SPD are broadly consistent with the advice found within the Framework which explains that the Government attaches great importance to the design of the built environment and that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
8. Since the subject extension does not exceed the footprint of the existing building and reaches only just above the eaves, its scale is not out of keeping with the existing building. The use of white uPVC cladding panels has not prevented the achievement of a sturdy, secure, waterproof and insulated structure, but their shiny reflective surfaces unfortunately share little visual affinity with the building materials used in the external construction of the main building. The poor design continues at roof level where polycarbonate sheets set on a shallow slope appear visually at odds with the roof form and materials of the adjoining roof of the main house.
9. As the enforcement notice indicates, the extension, due to its poor design and use of inappropriate materials, appears as an alien and intrusive feature that is harmful to the visual amenity of the dwelling and its environs when viewed from other neighbouring dwellings, even though I accept that it is visible from the rear of only a few of them.
10. The appellant says he was completely oblivious to the SPD but it was prepared in 2012 and offers sound advice to householders considering an extension to

their property. To avoid dominance and overshadowing of neighbouring properties, it says that as a general rule of thumb first floor extensions can project up to 1 m on the common boundary. The Council also operates the widely used 45-degree code.

11. There is a three-light window serving a bedroom in the rear first floor wall at no. 14. It is close to the common boundary. The subject first floor extension has been built on or very close to that boundary and considerably exceeds 1 m in depth. There is no evidence that the 45-degree code has been respected. In these circumstances, whilst I take the appellant's point that the white cladding might throw reflected light into the neighbouring rear bedroom and I note that overshadowing was not mentioned in the enforcement notice, there is a risk that the overall depth and configuration of the extension adjacent to the boundary to no. 14 results in a rather dominating and overbearing impact on the outlook of those neighbours, thereby diminishing their living conditions. The overall negative effect in this regard might not be so serious as to warrant the withholding of planning permission for this reason alone, particularly in the absence of objections from the neighbouring occupiers, but it adds to my concerns about the development.
12. I find on the main issues that the extension seriously detracts from the character and appearance of the house and its immediate surroundings and compromises the outlook from the adjacent first floor window at the rear of no. 14 Kingswear Garth to a limited degree causing moderate harm to the living conditions of the neighbours in that property. There is therefore conflict with the relevant development plan policies, the SPD and the Framework.
13. The appellant refers to poorly constructed rear extensions at the houses to the rear and at the site visit showed me roof extensions at 64 Lulworth Crescent and 25 Kingswear Grove, the former one being clad in white uPVC. However, I do not know the circumstances behind any of these examples or whether they needed or have the benefit of planning permission. I have not been referred to any similar examples of first floor rear extensions clad in white uPVC and polycarbonate sheeting. In any case, just because inappropriate alterations might have been carried out at other houses in the area does not provide a strong case for permitting other alterations with design shortcomings elsewhere. With any new development proposal, the opportunity should be taken to improve the character and quality of an area, rather than allow existing mediocre or poor designs to provide the benchmark for future development.
14. I recognise the work and costs the appellant has put into the project already. Remedying the breach of planning control will also attract further costs. However, the refusal of planning permission is necessary and proportionate in the public interest. There is conflict with the development plan and having considered all other matters raised, I find no other material considerations of sufficient weight to justify a grant of planning permission. I conclude that the appeal on ground (a) should fail and that planning permission should not be granted on the deemed application. The enforcement notice is upheld.

Andrew Dale

INSPECTOR