
Appeal Decision

Site visit made on 6 December 2016

by D A Hainsworth LL.B(Hons) FRSA Solicitor

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

Decision date: 20 December 2016

Appeal Ref: APP/W1905/C/16/3149517

90 Raglan Avenue, Waltham Cross, Hertfordshire EN8 8DD

- The appeal is made by Fatmir Frosheri under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: ENF/16/0003) issued by Broxbourne Borough Council on 30 March 2016.
 - The breach of planning control alleged in the notice is "Erection of two storey side and rear extension and front porch contrary to approved plans under planning permissions ref. 07/13/0502/HF granted on 5th September 2013".
 - The requirements of the notice are as follows: -
 - “(i) Restore the building to its pre-development condition as shown on the attached drawings numbered FP/FRO/0831-005 – Rev 2, FP/FRO/0831-006 – Rev 2, FP/FRO/0831-007 – Rev 2, FP/FRO/0831-008 – Rev 2, FP/FRO/0831-009 – Rev 2 and FP/FRO/0831-010 – Rev 2, detailed as existing; and/or
 - (ii) Implement development in accordance with the approved plans attached to planning permission reference 07/13/0502/HF; and
 - (iii) Permanently remove from the land all rubble, rubbish or debris arising from compliance with (i) and (ii).”
 - The period for compliance with these requirements is nine months.
 - The appeal is proceeding on the ground set out in section 174(2)(f).
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Correction of the enforcement notice

1. The use of the term “and/or” in the requirements of the notice is an error, since requirements (i) and (ii) are alternatives. I have corrected the notice.

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2. It is directed that paragraph 5 of the enforcement notice be corrected by replacing “and/or” in sub-paragraph (i) by “or”. Subject to this direction, the appeal is dismissed and the enforcement notice is upheld as corrected.

Reasons for the decision

3. The development has not been carried out in accordance with the approved plans. The Council point in particular to the additional height of the roof and the roof's enlarged “table top”, which they maintain result in the development looking much bulkier and prominent than the approved development would have done. They state that this has resulted in a structure that is overbearing, intrusive and incongruous and detrimental to the outlook and amenity of neighbouring properties and the character and openness of the wider area. They add that the impact is exacerbated by the use of tiles that do not match
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and, also, that the failure to provide vehicular access to the garage results in the development not meeting the adopted parking standard, giving rise to an increased demand for on-street parking.

4. The appellant states that he is willing to undertake alterations to help to improve the appearance of the development. These alterations include using matching tiles, changing the angle of the front hip, removing the post supporting the canopy at the front, carrying out works to bring the front drive up to the level of the garage floor, removing the flank bathroom window and bricking up the opening, and completing outstanding landscaping work. The Council consider that these proposals fall considerably short of what is necessary to fully address the harm caused by the failure to comply with the approved plans.
5. It seems to me, from my reading of the Council's representations and my inspection of the development and its surroundings, that the most serious concern is the failure to build the roof in accordance with the approved plans. The roof ridge should have been stepped down significantly in two places, whereas it has only been stepped down once and to a lesser extent than shown on the approved plans. This has resulted in a substantial increase in the height and bulk of the development, causing the harm identified by the Council.
6. The purpose of the appeal on ground (f) is to maintain that the requirements of the notice exceed what is necessary to remedy the breach of planning control and any injury to amenity caused by it. The appellant's proposals do not deal adequately with what I have assessed to be the most serious concern; they would therefore be insufficient to remedy the breach of planning control or the injury to amenity. The requirements of the corrected notice give the appellant the choice of either restoring the building to its previous condition or making it comply with the permission. These are not unreasonable requirements in the circumstances I have described. The appeal on ground (f) has therefore failed and the notice has been upheld as corrected.

D.A.Hainsworth

INSPECTOR