
Appeal Decisions

Site visit made on 16 January 2017

by Diane Fleming BA (Hons) MRTPI

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

Decision date: 14 February 2017

Appeal A Ref: APP/M1595/C/16/3145373

2 Marie Close, Corringham, Essex SS17 9EX

- 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 S Stanley against an enforcement notice issued by Thurrock Borough Council.
 - The enforcement notice was issued on 14 January 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised erection of an extension, erection of a canopy and alterations to existing outbuildings within the last four years on the Land as shown on plan 101 attached to the notice.
 - The requirements of the notice are
 - (i) Demolish the games room extension coloured blue as shown on drawing 2MC/101 attached to the notice;
 - (ii) Demolish the canopy and supporting posts to the front of the plant room as coloured green as shown on drawing 2MC/101 attached to the notice;
 - (iii) Demolish the walls and roof forming an enclosed and covered area as coloured pink on drawing 2MC/101 attached to the notice; and
 - (iv) Remove from the Land the materials and equipment arising from requirements (i)-(iii) above.
 - The period for compliance with the requirements is 3 months.
 - 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.
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Appeal B Ref: APP/M1595/W/16/3145196

2 Marie Close, Corringham, Essex SS17 9EX

- 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 S Stanley against the decision of Thurrock Borough Council.
 - The application, Ref 15/01199/HHA, dated 2 October 2015, was refused by notice dated 2 December 2015.
 - The development proposed is described as 'Proposed extension and modifications to existing outbuildings to rear of property'.
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Appeal C Ref: APP/M1595/W/16/3156670

2 Marie Close, Corringham, Essex SS17 9EX

- 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 S Stanley against the decision of Thurrock Borough Council.
 - The application, Ref 16/00247/HHA, dated 22 March 2016, was refused by notice dated 18 May 2016.
 - The development proposed is described as 'Removal of existing conservatory and retention of extended games room'.
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Appeal A

Decision

1. It is directed that the enforcement notice is varied by the deletion of the letter 's' at the end of 'posts' in paragraph 5.(ii) of the notice. Subject to this variation, the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeals B and C

Decision

2. The appeals are dismissed.

The Notice

3. The notice requires that the 'supporting posts', which form part of the canopy structure, should be demolished however at the site visit I saw that there was only one post. I will therefore vary the notice to reflect this.

Background

4. The appeal concerns a detached house situated in the Metropolitan Green Belt. The previous owners of the property received planning permission in 2009 to erect a rear conservatory, detached games room and a swimming pool with a detached plant room. The appellant extended the games room to join the plant room and added a canopy over the entrance to the plant room. He submitted an application in 2015 for this work after he had started it. When this was refused (Appeal B) the Council issued an enforcement notice requiring it to be removed. After he lodged an appeal against the notice (Appeal A), he submitted a second application proposing the removal of the conservatory in order to keep the extended games room. Following this refusal he lodged a third appeal (Appeal C).

The ground (a) appeal, the deemed planning application and the refusal of two planning applications (Appeals A, B and C)

Main Issues

5. The appeal site is within the Green Belt (GB) and therefore the main issues are:
 - Whether the extension and alterations to the existing outbuildings, are inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - The effect of the development on the openness of the GB and on the character and appearance of the area;
 - If the development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to very special circumstances necessary to justify it.

Reasons

Whether inappropriate development

6. The appeal site comprises a dwelling on a small estate of similar houses. The siting of the dwelling is parallel to the main road (Southend Road) and there is a swimming pool between the flank wall of the house and the boundary treatment and landscaping separating the plot from the road. The rear garden abuts Park Gate Road which provides access to a small development of bungalows. Adjacent to Marie Close there is a short line of older detached and semi-detached houses fronting Southend Road. The surrounding area is largely fields and open countryside.
7. Within the rear garden of the appeal site there was a detached outbuilding with a pitched roof, described as a games room, and a separate, smaller plant room, also with a pitched roof. Other properties within Marie Close have outbuildings in the rear gardens such as the small, wooden, summer house at No 3 and a small shed at No 4. The appellant has now erected an extension between the games room and the plant room, maintaining the pitched roof design, and added a canopy in front of the plant room so that the front elevation is now aligned. As the games room was built in from the side and rear boundaries of the garden the appellant has also enclosed this space to create a narrow corridor which runs along the side and rear of the enlarged building. This is shown as 'covered area' on the plans.
8. The Framework establishes that new buildings within the GB are inappropriate unless, amongst other things, development involves the extension or alteration of buildings. This is provided that the extension or alteration of buildings does not result in disproportionate additions over and above the size of the original. Policy PMD6 of the Council's Local Development Framework (LDF)¹ takes this approach. It sets out that within the GB, small scale development will be permitted, that is buildings for uses defined as appropriate in national policy, and limited extensions to existing buildings. In the case of residential extensions the policy sets out that this means no larger than two reasonably sized rooms or any equivalent amount. As such I give it weight as it is consistent with the wording in the Framework. However, there is no reference within the Framework to the extension of outbuildings within a domestic curtilage and Policy PMD6 does not go any further in respect of the approach that the Council will take in considering such proposals.
9. I consider even though the Framework makes no mention of ancillary outbuildings within the curtilage of a dwelling that the structures within the appeal site are nevertheless buildings. A plain reading of the third bullet point in paragraph 89 of the Framework means any proposal to extend a building would not be inappropriate provided it does not result in a disproportionate addition.
10. The extension to the games room has doubled its size with the additional floor area for this part of the development given as either 24 sq m on the plans accompanying Appeal B or 19.24 sq m on the plans accompanying Appeal C. No separate floor area measurement is given for the 'covered area' or the area enclosed by the canopy but these additional areas increase the width and depth

¹ Thurrock Local Development Framework Thurrock Core Strategy and Policies for Management of Development Focused Review – Consistency with National Planning Policy Framework Local Plan January 2015

of the overall resultant building. This means that the total additional floor area amounts to more than half of the original outbuildings within the garden. The appellant submits that the scale of the development represents a subordinate addition. Whilst the extension is no higher than the height of the former games room, assessing proportionality is primarily an objective test based on size. It is for this reason that I consider when comparing the original floor area of the games room and plant room to what exists now that the result is disproportionate. It is therefore inappropriate development which is, by definition, harmful to the GB.

Openness, character and appearance

11. The siting of the extension in an area where a building does not currently exist results in a reduction in the openness of the GB. However, public views of this development are largely limited to a view of the new roof from Park Gate Road. From Southend Road it is also possible to see the new roof lights within the new roof. The appellant submits that the development retains the open and spacious aspect of the appeal site. However, I find that the result of the development is that it encloses the garden, especially when viewed from Park Gate Road, and from within the garden there is now a substantial building all along the rear boundary of the site. Openness is one of the GB's most important attributes and loss of openness, however minor, must be added to the harm to the GB by reason of inappropriateness.
12. The development is visible from neighbouring properties and from Park Gate Road the rear wall of the extension is visible above the height of the garden boundary wall. The appellant has clad the development in brown coloured UPVC cladding which gives the extension and the adjacent components the appearance of a large cabin. The Council raise no objection to the design of the development. Given its siting, I consider it does not materially harm the visual amenities of the GB and the character and appearance of the surrounding area. It therefore accords with the Framework's requirement for good design.

Other considerations

13. The appellant in Appeal C proposes to remove the conservatory to offset the additional floor area of the games room, 'covered area' and plant room extension. The floor area of the conservatory is shown as 11.82 sq m. However, this proposal is connected with the Council's assessment of the games room development as a 'residential' extension to a house in the GB, which is limited to two 'reasonably sized rooms' as set out in guidance² supporting Policy PMD6. For the reasons already given, I find that the extension is to a building and therefore I have not had regard to the guidance. In any event, I consider the conservatory has less of an effect on the openness of the area than the new extension. This is because it is sited further away from the boundaries of the site and is seen against the backdrop of a two storey building. It is also mainly glazed which further reduces its effect on the area. Consequently I have attached limited weight to this submission.

² Annexe 8 of the Thurrock Borough Local Plan 1997, retained at Full Council on 29 2 2012 for the purposes of considering planning applications until the adoption of a Development Plan Document

Conclusions on the main issues

14. In conclusion, the extension is inappropriate development in the GB which is, by definition, harmful to the GB and should not be approved except in very special circumstances. Substantial weight has to be attached to any harm to the GB. The development has resulted in a small reduction in openness but it does not materially harm the character and appearance of the surrounding area. The other considerations reviewed above do not clearly outweigh these objections. The very special circumstances required to justify the development do not exist and the development is contrary to Policy PMD6 of the LDF, as well as the requirements of the Framework. Therefore for the reasons given I conclude that the appeal on ground (a) and the other appeals should fail.

The ground (g) appeal

15. This ground of appeal is that the time given to comply with the requirements of the notice is too short. The appellant does not specify what would be an appropriate period merely stating that he needs more time in order to appoint contractors and for them to carry out the work. The Council have made no comments in respect of this ground.
16. The time period given for compliance within the enforcement notice is to allow for the physical works associated with the unauthorised development to be removed. I consider the three month period is sufficient in the absence of a suggested alternative time frame. This would enable the removal of the extension and the other alterations specified in the notice. These works should be carried out within a reasonable period to overcome the harm identified by the Council in its reasons for issuing the notice. The appeal on ground (g) therefore fails.

Conclusions

Appeal A

17. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the deemed application.

Appeals B and C

18. For the reasons given above I conclude that the appeals should be dismissed.

D Fleming

INSPECTOR