The Planning Inspectorate

Appeal Decision

Site visit made on 14 March 2017

by Elizabeth Jones BSc (Hons) MCTP MRTPI

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

Decision date: 04 May 2017

Appeal Ref: APP/P1940/C/16/3156967
Land and Buildings at The Grange, White Shack Lane, Chandlers Cross, Rickmansworth, Hertfordshire WD3 4ND

- 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 Anthony Vico against an enforcement notice issued by Three Rivers District Council.
- The enforcement notice was issued on 18 July 2016.
- The breach of planning control as alleged in the notice is without planning permission the erection of a single storey rear extension, first floor rear extension and timber balcony/raised platform.
- The requirements of the notice are:
  1. Demolish the single storey rear extension (as shown hatched in blue and marked "proposed extension" on attached Drawing No. G/R1/EXTENSION/003 Rev A (submitted under Council planning reference number 16/0399/RSP)).
  2. Demolish the first floor extension (as shown as "proposed" on attached Drawing No's: G/R2/ROOF ALTERATION/006 and G/R2/ROOF ALTERATION/007 (submitted under Council planning reference number 16/0400/RSP)).
  3. Demolish the timber balcony/raised platform (as shown in the attached photograph).
  4. Following compliance with requirements 1, 2 and 3 above, restore the dwellinghouse to its condition before the breaches of planning control occurred (as shown as "existing" on attached Drawing No's G/R2/ROOFALTERATION/006 and G/R2/ROOF ALTERATION/007 (submitted under Council planning reference number 16/0400/RSP) in respect of the first floor extension and as shown on attached Drawing No G/R1/EXTENSION/002 Rev A (submitted under Council planning reference 16/0399/RSP) in respect of the single storey rear extension), and remove from the land all debris and waste materials resulting from these requirements.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

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

Procedural Matter

1. Subsequent to the issuing of the enforcement notice planning permission was granted on appeal for the single storey rear extension (appeal decision dated 18 October 2016, Ref: APP/P1940/D/16/3152727). Section 180 of the Act indicates that in such circumstances the notice shall cease to have effect in so far as it is inconsistent with that permission. That being the case, there is no need to correct the notice. My decision will consider those aspects of the enforcement notice not granted permission, namely the first floor rear extension and timber balcony/raised platform.

The appeal on ground (a)

2. Planning permission was refused and an appeal dismissed ref: APP/P1940/D/16/3152729 for the 'alteration to roof over pool room forming elderly relation accommodation' dated 18 October 2016. The previous Inspector considered that the first floor extension, when taken into account along with previous extensions, results in a dwelling significantly in excess of the size thresholds set out in the Council's Supplementary Planning Guidance No.3 *Extensions to Dwelling in the Green Belt* (2003) (SPG). It was concluded that the development presents a disproportionate addition which constitutes inappropriate development in the Green Belt and results in a small but appreciable reduction in the openness of the Green Belt.

3. In his final comments, having regard to the previous Inspector's decision, the appellant concedes that the objection to the first floor extension as built cannot be overcome and accepts that the requirement to remove/reduce the size of the first floor rear extension will also result in the removal of the balcony/raised platform.

4. Notwithstanding the previous Inspector's decision and the appellant's concession it is necessary for me to consider the planning merits of the first floor rear extension and the timber balcony/raised platform in the appeal under ground (a).

First floor rear extension

5. The appellant states that the first floor rear extension together with previous extensions results in a cumulative increase of over 40% of the floor space of the original dwelling. The SPG advises that extensions resulting in a cumulative increase in floor space of over 40% compared to the original dwelling will normally be unacceptable. In this particular case the extension if allowed would result in an increase in floor space of 95% over the original dwelling. Therefore, the development is inappropriate development in the Green Belt because it results in a disproportionate addition over and above the size of the original building. Moreover, the proposal increases the massing of the built development which reduces the openness of the Green Belt. Thus the development is contrary to Policy CP11 of the Three Rivers District Council Core Strategy (2011) (CS), Policy DM2 of the Three Rivers District Council Development Management Policies Local Development Document (2013) (DMP), the Council's SPG and the National Planning Policy Framework (the Framework).

Timber balcony/raised platform

6. Due to its height and proximity to the neighbouring boundary the timber balcony/raised platform provides a direct line of sight into part of the rear garden of The Laurels which causes a loss of privacy which is materially harmful to the living conditions of the occupiers of this property. The appellant has suggested that the neighbours' privacy could be protected by the addition of a 1.8 metre high screen along the flank of the balcony, but this would not remedy the breach that has occurred. Moreover, the proposed screening would result in the presence of what would be an imposing structure for the occupants of The Laurels, creating its own visual harm for the occupiers of this property.

7. I conclude that the development gives rise to an unacceptable degree of overlooking which has an adverse effect on the living conditions of the occupiers of The Laurels. The Development therefore does not accord with Policies CP1 and CP12 of the CS, Policy DM1 and Appendix 2 of the DMP and the Framework which seek to ensure a good standard of amenity for all existing and future occupants of land and buildings.

Other considerations

8. The appellant draws attention to a potential fall-back – that is: what might be erected as permitted development and suggests that the roof extension be reduced in size to correspond with what might have been erected as permitted development. Section 177(1)(a) of the Act allows me to grant planning permission whether in relation to the whole or any part of the development.

9. The appellant has provided isometric view drawings[1] and suggests that the first floor extension could be reduced so that it does not exceed 50 cubic metres under permitted development. Whilst these drawings do not provide full dimensions, it is evident that by scaling off the drawings they show that the cubic content of the resultant roof space would exceed the cubic content of the original roof space by more than 50 cubic metres. In order to achieve a resultant roof space which does not exceed the cubic content of the original roof space by more than 50 cubic metres the extension would have to be reduced to such an extent that I consider it would no longer resemble the drawings as submitted.

10. Moreover, paragraph Part B.1 (e) (i) of Part 1 of Class B of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995(GPDO) states that development is not permitted by Class B if it would consist of or include the construction or provision of a verandah, balcony or raised platform. The appellant suggests that the balcony/raised platform could be removed thereby bringing the development in line with the GPDO. However, the isometric drawings show what appear to be doors out onto the flat roof. Thus, the suggested scheme would not meet the requirements of Class B. Overall, I am not convinced that the drawings are an accurate representation of a fall-back position and neither does the suggested scheme overcome the planning objections. Thus, I afford the fall-back position limited weight.

11. I find nothing in the appellant's submissions sufficient to clearly outweigh the totality of the harm which is the test they have to meet. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist.

Conclusion

12. For the above reasons, I conclude that the appeal on ground (a) should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission for the extension as built or one of the reduced size as suggested by the appellant.

The appeal on ground (f)

[1] Appendix A.

13. The appeal on ground (f) is that the requirements of the notice exceed what is necessary. The purposes of an enforcement notice are set out in section 173 of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173 (4)(b)). As the enforcement notice requires the demolition of the first floor extension and the timber balcony/raised platform, the purpose is clearly to remedy the breach of planning control. No lesser steps than the removal of the first floor extension and timber balcony/raised platform would achieve that purpose.

14. The appellant submits that the complete removal of the first floor extension is not necessary and that it could be amended as per the permitted development fall-back position. I accept that enforcement action is remedial not punitive and thus in this respect it would not be unreasonable to reduce the extension to one which might have been permitted development. However, I have not been provided with an accurate drawing to show how this might be achieved.

15. In order to remedy the breach of planning control, it is not excessive to require the first floor extension and the timber balcony/raised platform to be demolished and the dwelling to be restored to its condition before the breach of planning control took place. I conclude that no lesser steps would remedy the breach of planning control that has occurred. The appeal on ground (f) therefore fails.

The appeal on ground (g)

16. The appeal on ground (g) is that the time given to comply with the requirements of the notice is too short. The appellant seeks 12 months in order to finance and carry out the required works. The Council considers that 6 months is sufficient time to comply with the notice.

17. Having regard to the submissions from both parties, I consider that it would be excessive to give the appellants 12 months to comply with the notice as a whole. Given the scale of the works necessary, I consider that a 9 month period would be a realistic timescale. This extended compliance period would also give the appellant the opportunity to explore with the Council the possibility of an alternative arrangement which does not require complete removal of the first floor extension. I therefore consider that the period for compliance with the notice should be increased to 9 months and the appeal on ground (g) should succeed.

Formal Decision

18. It is directed that the enforcement notice be varied by the deletion of the words "6 months" and the substitution therefor of the words "9 months" as the time for compliance.

19. Subject to the above 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.

Elizabeth Jones

INSPECTOR