



Appeal Decision

Site visit made on 12 August 2019

by B.S.Rogers BA(Hons) DipTP MRTPI

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

Decision date: 19 August 2019

Appeal A Ref: APP/A2335/C/19/3221336

Appeal B Ref: APP/A2335/C/19/3221337

11 Springfield Street, Lancaster, LA1 4XL

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- Appeal A is made by Mr Jim Freer and Appeal B is made by Ms Hannah Green against an enforcement notice issued by Lancaster City Council.
- The enforcement notice was issued on 18 December 2018.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a rear extension as shown hatched blue on the attached plan.
- The requirements of the notice are:- a. remove the unauthorised extension; b. remove all the resultant building materials relating to the unauthorised extension; and c. reinstate the area hatched blue on the attached plan to its former condition (prior to the unauthorised extension).
- The period for compliance with the requirements is 124 days.
- **Appeal A** is proceeding on the grounds set out in section 174(2)(a), (b), (c) and (f) of the Town and Country Planning Act 1990 as amended.
- **Appeal B** is proceeding on the grounds set out in section 174(2)(b), (c) and (f) of the Town and Country Planning Act 1990 as amended.

Summary of Decisions: Appeal A is allowed and the enforcement notice is quashed, subject to a correction and variations. No further action is taken on Appeal B.

The appeals on ground (b)

1. The appellants submit that the allegation i.e. the erection of a rear extension, has not taken place. There was already an extension in place in 2002, when the property was purchased, as is shown in the sales particulars and the mortgage valuation report. In the sales particulars, it is described as a sun porch/utility, also containing a hand basin and WC. The submitted photographs are not very clear but the structure appears to have masonry walls, albeit with glazing above the stone boundary wall with the adjoining house, no.9. It appears to have a gently-sloping polycarbonate roof.
2. A building notice submission was made in 2017 to replace an existing joist with a steel beam and to re-roof an existing extension (ref: 17/00974). The evidence of the appellants' builder is that, in accordance with this submission, he replaced the sloping roof with a flat roof. This entailed its being raised at the furthest point from the house by some 350mm. The patched up render I saw on site is consistent with this evidence. The Council accepts that the footprint of the previous extension has not been altered.
3. Although it is clear that some building operations have taken place, on the balance of probability, it appears to me that the allegation is inaccurate. It

should refer to alterations to an existing rear extension to enable the formation of a new, flat roof. I feel able to correct the notice accordingly without injustice to the parties in order to address this lack of clarity. To that limited extent, the appeal on ground (b) succeeds.

The appeals on ground (c)

4. The appellants argue that the works carried out amount to repair and maintenance and do not fall within the definition of development set out in S.55 of the Act. However, in my view, the raising of part of the masonry walls and formation of an entirely new roof are building operations which have altered the form of the building and have had a material effect on its external appearance. The appeal on ground (c) fails.

Appeal A on ground (a) and the deemed application

5. The appeal site is within the Lancaster Conservation Area (CA). Policy SC5 of the Lancaster District Core Strategy Policies seeks high quality design but there is no suggestion that the unauthorised development has had an impact of any significance on its character or appearance of the CA. Policy DM35 of the Development Management DPD seeks to ensure that development does not adversely affect amenity. Accordingly, the main issue in this case is the impact of the development on the living conditions of the neighbouring residents.
6. The appeal property is one of a terrace of similar houses, each of which has an original rear outrigger. The rear extension referred to above infills the gap between the outrigger and the c. 2m high stone boundary wall which separates the small rear garden of no.11 Springfield Street from that of the neighbouring dwelling to the SW, no.9. It extends some 4.75m from the rear of the house, around 1.5m further than the outrigger.
7. The appellant claims that the formation of the flat roof entailed slightly lowering the point at which the original roof met the house and raising the roof by some 350mm at the rearmost point. The submitted photographs and what I could see of the building works appear to be consistent with this claim. The original lightweight roof and glazing which faced no.9 above the boundary wall now has a more solid presence but such an alteration is not, to my mind, of great significance to the amount of daylight enjoyed by the neighbouring residents. The windows could have been infilled at any time without the need for planning permission.
8. In my view, the only change of significance to the neighbours' amenity is the raising of the rearmost part of the extension. I was unable to gain access to view the development from the neighbouring garden but, from what I was able to see from the appeal site, the altered roofline does not appear unduly overbearing to, and does not unduly diminish the sunlight and daylight enjoyed by, the occupants of no.9.
9. I therefore conclude that the development does not unduly harm the living conditions of the neighbouring residents and does not conflict with the aims of the development plan. The appeal on ground (a) and the deemed application succeed. Accordingly, I shall grant planning permission and quash the enforcement notice.

The appeals on ground (f)

10. The requirements of the notice would need to be varied so that they were consistent with the corrected allegation. Such variations can be made without injustice to the parties.

Formal Decisions

Appeal A

11. It is directed that the enforcement notice be:-

- i. Corrected by altering part 3 to "Without planning permission, alterations to an existing rear extension and the formation of a new, flat roof."
- ii. Varied by altering requirement (a) to:- "remove the unauthorised alterations to the upper walls and roof; and", and requirement (c) to:- "reinstate the roof of the extension to its form immediately prior to the unauthorised works."

Subject to this correction and these variations, the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the alterations to an existing rear extension and the formation of a new, flat roof.

Appeal B

12. In the light of my decision on Appeal A to quash the enforcement notice and grant planning permission, no further action is required in relation to Appeal B.

B.S.Rogers

Inspector