
Appeal Decision

Site visit made on 1 August 2019

by Timothy C King BA (Hons) MRTPI

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

Decision date: 29 August 2019

Appeal Ref: APP/G1250/C/18/3212065

Land at 56 Avon Road, Bournemouth BH8 8SE

- 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 Farhad Mohammed against an enforcement notice issued by Bournemouth Borough Council.
- The enforcement notice was issued on 20 August 2018.
- The breach of planning control as alleged in the notice is: without planning permission, alterations and the erection of a two-storey extension to the dwellinghouse.
- The requirements of the notice are to:
- Either:-
- Dismantle the extension including all foundations, make good any damage to the original building and remove all resultant materials.
- Or:-
- Carry out remedial works and complete the development in accordance with planning consent 7-2016-24756-C. Approved plan 6070/4A.
- The period for compliance with the requirements is 3 months after this notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.

Decision

1. The appeal is dismissed and the enforcement notice is upheld, as corrected. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Background

2. Planning permission (ref 7-2016-24756-C) was granted in March 2017 for alterations and extensions to the dwelling. In essence, the development comprised a rear extension and also the formation of a first floor front balcony with perimeter balustrading.
3. The permission was conditional that the development be carried out in accordance with the approved plan (drawing No 6070/4A). However, the development was built with a significantly larger rear extension than was approved. The Council then refused retrospective planning permission for the development as built, and served an enforcement notice requiring either the extension's removal or its alteration to accord with the previously approved plan.

4. The Council considered it expedient to issue the notice due to what it considered to be a resultant harmful visual effect on the area's character and appearance.

The Appeal on Ground (a) and the Deemed Planning Application

Main Issue

5. The main issue is the development's effect on the character and appearance of the area.

Reasons

6. The rear extension rises to two-storeys with a flat roof projecting rearwards from the dwelling's eaves height. Both its prominent, high flank walls are visible through gaps from Avon Road. The development has allowed for the creation of additional accommodation at first floor level lit by two rooflights, but this has added significant bulk to the dwelling and contrasts sharply with the earlier approved scheme which, instead, proposed a rear extension that would have dropped away sharply from the eaves to single-storey height.
7. The substantial bulk and massing evident from the two-storey development, accentuated by the high flat roof element, has amounted to an awkward physical arrangement whereby the extension's form fails to integrate with, and has little regard to, the design characteristics of the host dwelling. This is at odds with the more limited effect that would have arisen from the approved scheme where the transition to single storey level would have tempered the extension's impact.
8. In the circumstances I find the development to be at odds with the design objectives of policy CS41 of the Bournemouth Local Plan: Core Strategy which, concerned with quality of design, seeks to ensure that all development, through its scale, character and appearance, respects the site and its surroundings. It is also contrary to relevant advice on roof alterations in section 3 of the Council's document 'Residential extensions – A Design Guide for Householders'. Although the Council cites section 3.3, section 3.1 on rear extensions is more apposite in its guidance that any extension should respect the scale of the original building.
9. In support of the appeal the appellant comments that the dwelling's overall footprint remains unchanged and the alterations made represent a small area in relation to the bulk of the building. I disagree, as the dwelling's bulk is significantly pronounced as a result of the extension built.
10. The appellant also indicates that the design was varied in order to simplify construction following consultation with a structural engineer. However, this does not justify such a significant departure from the development applied for and subsequently approved, and does not weigh in the appeal's favour.
11. The Council, in its reasons for issuing the notice, did not raise concerns as to the development's effect on the living conditions of neighbouring occupiers and the appellant has drawn this to my attention along with an apparent absence of objection from neighbours. The case report relating to the retrospective application made (ref 7-2018-24756-D) confirms that no representations were received following consultation whilst the decision notice makes no specific reference to the development's effect on living conditions. This might be the

case but it is significantly outweighed by my findings as to the extension's adverse visual impact.

12. In terms of the enforcement notice's requirements, aside from the option to demolish the extension, an alternative refers to works to be carried out so as to make the development consistent with permission ref 7-2016-24756-C. This remains extant and can therefore still be lawfully implemented up until 15 March 2020. Whilst I consider that the alterations necessary to achieve this would be significant the schemes' footprints are the same and the external modifications relate mainly to the roof form.
13. The previous planning permission was subject to several conditions. These relate to the use of matching materials, a height stipulation regarding the rear rooflights, the approval of details/samples as to the front balcony and compliance with the approved plans. Whilst the balcony does not form part of the rear extension the other three conditions remain of particular relevance to this appeal and, if this option is chosen, their requirements should be observed in accordance with the reasons set out on the Council's decision notice.

Conclusion

14. For the reasons given and having had regard to all matters raised, I conclude that the appeal on ground (a) should fail and the deemed planning permission is refused. The enforcement notice is upheld but is subject to correction to clarify its stated requirements.

Formal Decision

15. The appeal on ground (a) is dismissed and the enforcement notice is upheld, but is corrected by, in point 5, deleting the words "Carry out remedial works and complete the development in accordance with planning consent 7-2016-24756-C. Approved plan 6070/4A." and replacing them with the words "Carry out remedial works and complete the development in accordance with the terms and conditions of planning permission 7-2016-24756-C, dated 15 March 2017."

Timothy C King

INSPECTOR