



Appeal Decision

Site visit made on 30 July 2019

by Stephen Brown MA(Cantab) DipArch RIBA

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

Decision date: 09 September 2019

Appeal Ref: APP/J1535/C/18/3205759

Land at 83 Bell Common, Epping CM16 4DZ

- 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 by Paul Commins (PC & AD Developments Ltd) against an enforcement notice issued by Epping Forest District Council.
 - The enforcement notice, ref. ENF/0702/16, was issued on 25 May 2018.
 - The breach of planning control alleged in the notice is without planning permission the unauthorised construction of a dormer positioned on the south-west facing elevation.
 - The requirements of the notice are to:
 - (i) Remove the side dormer window in the south-west elevation, OR
 - (ii) Alter the building to accord with the plans approved under planning permission ref. EPF/2829/16.
 - The period for compliance with the requirements is 2 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. The prescribed fees have been paid within the specified period, so the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended fall to be considered.
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Decision

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

Preliminary matters

2. The appeal site lies within the Bell Common Conservation Area. I have therefore paid special attention to the desirability of preserving or enhancing the character and appearance of that area as required by s.72(1) of the Planning (Listed buildings and Conservation Areas) Act 1990 as amended.

Background matters

3. The appeal property is a detached house of two storeys with an attic floor standing on the south-eastern side of Bell Common. It is quite recently built following grant of planning permission for a three-storey detached dwelling in replacement for a previously existing two-storey house¹. An application was made in 2017 for retention of the dormer as-built, but this was refused².

¹ Decision notice ref. EPF/2829/16.

² Decision notice ref. EPF/2955/17.

The appeal on ground (a) and the deemed planning application

4. This ground is that planning permission should be granted for the matters stated in the enforcement notice.
5. From my inspection of the appeal site and surroundings, and all that I have read I consider the main issue in this appeal to be the effect of the alleged unauthorised development on the character and appearance of the Bell Common Conservation Area.
6. The Conservation Area includes development along the northern side of High Road, that along the south-eastern side of Bell Common, and the area of rough woodland between. Development is highly varied including several listed buildings, farmhouses, and vernacular cottages built from the early 17th century onwards. Houses nearby to the appeal site are mainly 20th century of a conventional pattern. The overall character is of attractive small-scale domestic buildings in a quiet semi-rural setting.
7. The Council say the dormer is significantly different from that approved in that the dormer face is nearly double the size, the top is closer to the ridge line by some 800mm, and it is about 1 metre further towards the front of the house. This is exacerbated by the fact that the new house is significantly higher than those adjacent by about 1 metre. The appellant does not dispute these assessments and argues that the differences are relatively minor.
8. The new house is a replacement for a modestly sized one-and-a-half storey house. As the Council say, it is about a metre higher than the houses to either side, which already increases its scale and prominence in the street scene. This is also a result of standing well forward of no. 85 the house immediately to the south-west. The dormer as-built takes up a large proportion of the roof slope, coming close to both the ridge and eaves. This compares with the approved design, which would have been set well down from the ridge. It is set forward of the approved position, resulting in significantly greater prominence. To my mind the dormer is itself of significantly greater scale than that approved and serves to emphasise the already somewhat bulky appearance of no. 83. It is a dominating and overbearing feature of the roof when approaching the house along Bell Common from the south-west.
9. I find the dormer window to be in incongruous element in the context of the small-scale domestic buildings that are prevalent in the Conservation Area and conclude that the development causes significant harm to its character and appearance. The dormer does not accord with the development plan, particularly in terms of Policies HC6 and HC7 of the Epping forest District Local Plan of 1998 and Adopted Alterations of 2006. These seek to prevent development that could be detrimental to the character, appearance or setting of a conservation area, and include aims to ensure development is of a particularly high standard to reflect the quality of the environment, and is sympathetic to the character and appearance of the conservation area.
10. Paragraph 196 of the National Planning Policy Framework (NPPF) advises that where a development would cause less than substantial harm to the significance of a designated heritage asset – such as a conservation area – this harm should be weighed against the public benefits of the proposal. The harm caused to the Conservation Area in this case must be regarded as less than

substantial. However, the dormer provides an entirely private benefit, and there are no public benefits to be weighed against the harm I have found.

11. Various examples have been put forward of other dormers of substantial size in Bell Common and elsewhere. However, I have virtually no knowledge of when these were built, or under what planning regime. In any case the existence of other possibly poorly designed dormers cannot justify causing further harm to conservation area interests. The appeal on ground (a) does not succeed, and I intend to refuse planning permission on the deemed planning application.

The appeal on ground (g)

12. This ground is that the compliance period is too short. The appellant argues essentially that the 2-month period allowed would necessitate the required works to take place in the busiest time of year for building contractors, and that there should be a 6-month period.
13. The appellant accepts that the 2-month period would be adequate to allow the removal of the dormer and associated alterations. Should there be *bona fide* reasons that the works could not be carried out at a specific time, it would be open for the Council to extend the compliance period under the provisions of s.173(1)(b) of the Act. Provided the appellant could properly substantiate any reasons for delay I can see no reason why the Council should not do this.
14. I do not consider the compliance period should be extended, and the appeal on ground (g) therefore fails.

Conclusions

15. For the reasons given above and having regard to all other matters raised I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Stephen Brown

INSPECTOR