

Appeal Decision

Site visit made on 23 September 2019

by John Whalley

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

Decision date: 30 September 2019

Appeal ref: APP/B3030/C/19/3227056

18 Sherwood Avenue, Edwinstowe, Mansfield NG21 9NE

- The appeal is made by Mr Carl Ellis under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by Newark and Sherwood District Council.
- The notice was issued on 18 March 2019; reference 18/00271/ENF.
- The breach of planning control was: Without planning permission, 'development' consisting of the building of a first floor rear extension – as shown on photographs 1 & 2, (attached to the notice).
- The requirement of the notice is:
 - A. Remove the second storey rear extension that has been built to the rear of the property – shown in photographs 1 & 2.
- The period for compliance with the requirements is 365 days.
- The appeal was made on grounds (a) and (f). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of decision: The enforcement notice is upheld

Appeal site and development

1. The enforcement notice acts against the second storey rear extension that has been built on to an existing single storey rear extension to the detached house at No. 18 Sherwood Avenue, Edwinstowe. The rear gardens of the single storey houses at Nos. 22 – 26 Thoresby Avenue to the west adjoin the rear garden of No. 18. The rear garden to No. 16 Sherwood Avenue immediately to the east runs alongside that of No. 18. The rear garden of No. 39 Greendale Avenue to the north adjoins that of No. 18.

The appeal on ground (a)

2. The appeal on ground (a) asks for planning permission to retain the second storey part of the rear extension at No. 18 Sherwood Avenue. The decision turns whether the upper floor of the rear extension is acceptable in terms of its design and its relationship with neighbouring properties.
3. The Council referred to the Newark and Sherwood Amended Core Strategy DPD, (Development Plan Document), in particular at policy DM6 – Householder Development and to policy DM5. They said householder developments were accepted in principle subject to an assessment of criteria outlined in policy

DM6. Policy DM5 says new development is to achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context, complementing the existing build and landscape environments. It also requires the development to not unacceptably reduce amenity in terms of overbearing impacts, loss of light and privacy.

4. I consider that the flat roofed second storey extension at the rear of No 18 fails to respect the character of its surroundings as required by policy DM6. Its uncompromising squared shape stands out at the rear of the existing house, appearing as an incongruous addition, unacceptably dominant and overbearing in relation to the rear gardens of the single storey houses at Nos. 22 – 26 Thoresby Avenue to the west. The policy DM5 requirement that new development should be of a high standard has not been met.
5. The Appellant, Mr Ellis, said his builder told him planning permission would not be required to build the upper storey addition to the then existing single storey rear extension. That misleading advice has led to an unfortunate situation. But that is not good reason to grant planning permission to retain the poorly designed and unsympathetic appeal extension. The appeal on ground (a) fails.

The appeal on ground (f)

6. The appeal ground (f) says something less than compliance with the requirement to remove the extension would overcome objections to its retention. In my view, the Council's second objection to the appeal extension that the full height glazed doors at the side of the extension could lead to overlooking towards the rear of the house next door, No. 16 Sherwood Avenue, could be readily overcome by Mr Ellis's suggested alterations to those doors.
7. Had I found for retention of the appeal extension, I would have dealt with the overlooking objection under the ground (a) appeal by granting a planning permission conditional on ensuring that the extension's double side doors were fitted with obscure glazing and kept locked. In that instance, I would not have needed to go on to deal with the ground (f) appeal. However, no other suggestions were put forward to remedy the unhappily utilitarian design of the extension or the adverse effect on houses to the west. Changes to the finishes could provide slight relief. But they would not overcome the main objection to the retention of the unsympathetic and incongruous form and shape of the extension. The appeal on ground (f) fails.

FORMAL DECISION

8. 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 Act as amended for the development already carried out, namely the construction of a first floor rear extension at No. 18 Sherwood Avenue, Edwinstowe, Mansfield NG21 9NE.

John Whalley

INSPECTOR