



Appeal Decision

Site visit made on 18 September 2019

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 October 2019

Appeal Ref: APP/D3315/C/18/3218504

Land known as Oakhampton Park, Ford Road, Wiveliscombe, Taunton, Somerset TA4 2RW

- 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 Barnard James George (Jim) Elliott against an enforcement notice issued by Taunton Deane Borough Council.
 - The enforcement notice was issued on 9 November 2018.
 - The breach of planning control as alleged in the notice is:
Without planning permission the erection of 2 dormer windows within the building at the property shown in the approximate position for identification purposes marked as a rectangle edged and hatched black ("the building") on the plan attached to this notice and marked "plan 2". 1 (one) unauthorised dormer window is on the south east elevation of the building and is shown on the photograph attached to this notice and marked photo 1. The other unauthorised dormer window is on the north west elevation of the building and is shown on the photograph attached to this notice and marked photo 2 ("the 2 unauthorised dormers").
 - The requirement of the notice is "remove the unauthorised dormers from the building".
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and 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 erection of 2 dormer windows within the building at the property shown in the approximate position for identification purposes marked as a rectangle edged and hatched black ("the building") on the plan attached to this notice and marked "plan 2". 1 (one) unauthorised dormer window is on the south east elevation of the building and is shown on the photograph attached to this notice and marked photo 1. The other unauthorised dormer window is on the north west elevation of the building and is shown on the photograph attached to this notice and marked photo 2 ("the 2 unauthorised dormers")",

to the premises on Land known as Oakhampton Park, Ford Road, Wiveliscombe, Taunton, Somerset TA4 2RW referred to in the notice.

Preliminary Matters

2. One of the reasons for issuing the notice includes reference to planning condition 2 of planning permission ref 49/14/0078, requiring compliance with previously approved plans. The allegation in the way it is worded however refers to operational developments in the form of 2 dormer windows. The first reason for issuing the notice also refers to a 4 year period which confirms my interpretation, rather than 10 years which would apply if the allegation related to a breach of planning condition. Furthermore, the notice references section 171A(1) sub-paragraph (a) "carrying out development without the required planning permission" rather than sub-paragraph (b) "failing to comply with any condition or limitation subject to which planning permission has been granted".
3. The ground (a) appeal, and deemed planning application, must relate to the breach of planning control as stated in the notice. I could not consider using my powers of correction under s176(1) of the Act to broaden the scope of the allegation as that could cause injustice to the appellant. Given this and the above matters, I will therefore deal with the appeal on the basis of the dormers having been added to the existing building as there is no allegation regarding the building as a whole being unauthorised.

Main Issue

4. The effect of the dormers on the character and appearance of the existing building, neighbouring buildings and the setting of the site.

Reasons

5. Oakhampton Park includes a substantial, imposing 2 storey stone built dwelling set within very spacious, landscaped grounds within a rolling rural landscape. A series of outbuildings are positioned to the side of the dwelling linked to it by a pitched-roof structure.
6. The dwelling has a pitched, slate roof with small central gable feature. The outbuildings are of varied design although primarily also include slate roofs. Facing materials include a mixture of stone and also timber cladding. There is some variety with one of the smaller outbuildings having a partial corrugated metal roof and another larger building having a flat-topped crown roof. Behind the site as one approaches along the driveway, is a separate modern dwelling with a large, glazed gable on the front elevation.
7. Positioned close to the larger of the outbuildings is the outbuilding on which the dormers have been constructed. This is detached from the main dwelling and is towards the end of the gravel turning area and driveway that leads through the substantial grounds from the nearest public road. The main roof of the outbuilding is pitched with a slate roof and has red ridge-tiles similar to many of the other buildings within the site. It has gable ends with long roof slopes with deep eaves over-hangs. The roof containing the first floor of the structure therefore dominates the building which has a modern appearance. The main ridged-roof would remain the same if the steps required by the notice were complied with or if the recently approved alternative scheme with smaller dormers, were to be implemented.
8. The dormers are wide and their roofs are at the same height as the ridge of the main roof. As a consequence, rather than having ridged roofs, they have flat-tops and when looked at from the south-east and north-west, this along with

the glazing style means they have a less refined, non-traditional appearance than the dormers on the dwelling and other outbuildings. However, given the modern style of the existing building this is not out of keeping with its general appearance, in my view.

9. The outbuilding with the dormers is a substantial distance from public viewpoints and the Council could not draw my attention to any positions outside of the site from where the development can be viewed. The building is set behind very substantial trees and due to this and the distance from the shared part of the driveway, it is very difficult to notice the dormers when approaching the site. Furthermore, even when viewed at close quarters within the site, given the degree of separation from the main dwelling and its location close to the more varied style of the outbuildings, the dormers do not have a harmful impact upon or impose upon the more prominent other buildings within Oakhampton Park.
10. In conclusion on the main issue, the dormers have an acceptable effect upon the character and appearance of the existing building, neighbouring buildings and the general setting of the site. As the developments do not harm the form and character of main dwelling and are subservient to it in scale and design, they comply with Policy D6 of the Taunton Deane Adopted Site Allocations and Development Management Plan, December 2016.
11. The development has already taken place and so there is no necessity to require compliance with plans as suggested by the Council. Furthermore, a condition restricting the use of the property has been suggested but this appeal relates only to the construction of 2 dormers and not the whole building. A condition relating to the use of the building would not directly relate to the development being approved and would not be enforceable. As such the suggested conditions would not meet the tests for planning conditions set out in the National Planning Policy Framework.

Conclusion

12. The appeal is allowed, the enforcement notice is quashed and 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 erection of 2 dormer windows at Land known as Oakhampton Park, Ford Road, Wiveliscombe, Taunton, Somerset TA4 2RW as shown on the plan attached to the notice.

A Harwood

INSPECTOR