



Appeal Decision

Site visit made on 18 November 2019

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2019

Appeal Ref: APP/D1780/C/19/3227289

Land at 5 Avon Road, Southampton SO18 4FR

- 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 George Bhakar against an enforcement notice issued by Southampton City Council.
 - The enforcement notice was issued on 27 March 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, alterations to both sides of the roof slope to form a dormer window on each side.
 - The requirements of the notice are: (i) Remove both side dormer windows (ii) Reinstate the hipped roof following removal of both dormers (iii) Remove all resulting debris from the land.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (c) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, 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 have lapsed.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal was lodged on ground (b) however this was amended to ground (c) by the appellant in an email of 27 June 2019. The Council have subsequently responded to a ground (c) appeal and I am therefore satisfied that injustice does not result to the parties. Furthermore, I was able to observe during my site visit the roof alterations that have been enforced against. I will therefore proceed to determine the appeal on ground (c) only.

Main Issue

3. The main issue is whether the roof alterations enforced against are "permitted development" by virtue of Class B of Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO).

Reasons

4. For the appeal to succeed on ground (c) the onus is on the appellant to demonstrate, on the balance of probability, that the roof alterations enforced against are permitted development. To assist this, the only difference between the parties centres on whether the roof alterations exceed the volume of the

original roof space of the dwelling by more than 50 cubic metres. Based on the available evidence, I am satisfied that the roof alterations comply with the relevant permitted development restrictions in all other regards.

5. The evidence consists of sketch drawings, plans with annotated measurements as well as cross-sections. There does however appear to be some discrepancy between the various plans before me which I understand might be based on differences between what had been planned to be built and what had been constructed on site.
6. The appellant states that volumetric calculations are always based on internal volume. However, listed within the interpretations of the GPDO it states: "*cubic content*" means the cubic content of a structure or building measured externally.
7. Whilst the appellant may have originally felt that it was not necessary to provide pre or post development plans to the Council, this appeal was then his opportunity to evidence that the works undertaken were permitted development. The discrepancies between the plans that have been provided, including the sketch nature of one of those, culminates to cast considerable doubt in my mind, as I do not have clear evidence before me that what has actually been built satisfies the strictures of Class B of the GPDO, having particular regard to cubic content. Moreover, the appellant considered volume was calculated internally, rather than externally, which further undermines his contention that the works enforced against are permitted development.
8. Accordingly, I am not satisfied on the balance of probabilities that the roof alterations the subject of the enforcement notice are permitted development, and no planning permission has been brought to my attention. The appellant has therefore not satisfactorily discharged the burden of proof and the appeal on ground (c) must fail.

Other Matters

9. I appreciate the appellant has sought to co-operate with the Council and is aggrieved by how he considers the matter has been handled. However, this is not a matter before me, as I am confined to determining the appeal which relates solely to that pleaded on ground (c).

Formal Decision

10. The appeal is dismissed and the enforcement notice upheld.

Paul T Hocking

INSPECTOR