



Appeal Decision

Site visit made on 6 January 2020

by B.S.Rogers BA(Hons) DipTP MRTPI

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

Decision date: 15 January 2020

Appeal Ref: APP/A4710/C/19/3234417

142 Roils Head Road, Halifax, West Yorkshire, HX2 0NQ

- 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 Shoukat Ali against an enforcement notice issued by Calderdale Metropolitan Borough Council.
 - The enforcement notice was issued on 3 July 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the alleged unauthorised carrying out of operational development on the land comprising: i. the construction of a single storey extension to rear; ii. the construction of a front porch; iii. the construction of a second and third storey extension to side; iv. the installation of French doors at first floor level in rear elevation to facilitate access onto the roof of the single storey extension to rear; and v. the use of red profiled tiles on the canopy to side.
 - The requirements of the notice are (i) permanently remove from the land: i. single storey extension to rear; ii. front porch; iii. second and third floor extension to side; iv. French doors at first floor level in rear elevation; and v. red profiled roof tiles on the canopy to side. (ii) remove all materials, equipment and temporary structures arising from compliance with step 5 (i) from the land and reinstate the land to its condition before the breach took place. OR (iii) Construct the development on the land in accordance with the planning permission 17/01034/HSE granted on 13 October 2017: and (iv) remove all materials, equipment and temporary structures arising from compliance with step 5(iii) from the land.
 - The period for compliance with the requirements is 2 months for steps 5(i) and 5(ii) OR 4 months for steps 5(iii) and step 5(iv).
 - The appeal is proceeding on the grounds set out in section 174(2)(f) & (g) 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 and the enforcement notice is upheld.

Background

2. The appeal property is a semi-detached house sited at the junction of Roils Head Road and Gleanings Avenue. On 13 October 2017, the Council granted approval for a single storey extension to rear; porch to front; canopy to side and dormer windows to rear and side elevations (Revised Scheme to 16/01137)(Part Retrospective), (Ref: 17/01034/HSE). In the event, the development was not carried out in accordance with this permission.

The appeal on ground (f)

3. The only 2 steps queried by the appellant are the requirements to remove the French doors at first floor level in the rear elevation and to remove the red profiled roof tiles on the canopy to the side. It is submitted that lesser steps could be taken.
4. Turning first to the French doors, the Council has raised no objection to their appearance. However, it is concerned that the doors could be used to facilitate use of the extension approved in 2017 as a roof terrace. I note that condition no.4 of the 2017 permission states *"Notwithstanding details shown on the approved drawings, the flat roof of the single storey rear extension hereby approved shall not be used for any purposes incidental to the occupation of the dwelling"*. The reason for this is *"To safeguard the privacy and amenity of occupiers of neighbouring properties and to ensure compliance with policy BE2 of the Replacement Calderdale Unitary Development Plan."*
5. The appellant submits the doors are intended for emergency egress. They are shown as *"escape door only"* on the plan accompanying a part retrospective application (Ref: 19/00759/HSE) for a single storey extension to rear, porch to front, canopy to side and front and dormer windows to rear and side elevations. I understand that this application remains undetermined. However, the appellant has provided no indication as to why, or if, the doors are necessary for escape purposes. To my mind, the doors are part and parcel of the overall development enforced against and appear designed to facilitate the unacceptable use of the flat roof as a roof terrace. Their removal is no more than is needed to address the breach.
6. With regard to the roof tiles, the appellant points to the note on the drawing which forms part of the 2017 approval, which indicates that *"concrete interlocking tiles to match existing house"* will be used. However, whilst the interlocking design of the tiles which have been installed is similar, the red colour clearly does not match the grey/green colour of those on the existing house. The roof tiles in question are therefore unauthorised and the requirement to remove them is no more than is required to remedy the breach.
7. The appeal on ground (f) fails.

The appeal on ground (g)

8. The appellant submits that the stipulated period of 2 months to carry out the demolition works is inadequate. This is first, because of the time required to organise and finance the works and, second, to allow time for the application referred to in para.5 above to be determined by the Council, and appealed if necessary.
9. I have seen no evidence of financial hardship and it appears to me that 2 months is adequate time to organise and carry out steps 5(i) and 5(ii). The ground (f) appeal only challenged two of the five requirements of step 5(i) and it must therefore be assumed that the appellant has for some time been anticipating compliance with the remaining three matters.

10. The required works to carry out steps 5(iii) and 5(iv), i.e. the option of reconstructing the development as approved in 2017, are more extensive and this is recognised in the notice, in allowing a period of 4 months undertake such works. This appears to me to be a reasonable period to carry out the development, bearing in mind also the harm that is being experienced as a result of the unauthorised development.
11. On the second point, the appellant had the option of appealing against the enforcement notice on ground (a) but chose not to do so. There is no indication from the Council that the application referred to in para.5 above is likely to succeed and, if it does, the Council has the option of extending the compliance period or even withdrawing the notice, if appropriate to so do.
12. The appeal on ground (g) fails.

B.S. Rogers

Inspector