



Appeal Decision

Site visit made on 7 November 2019

by Timothy C King BA (Hons) MRTPI

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

Decision date: 3 February 2020

Appeal Ref: APP/H1515/C/18/3214863

Land at 3 Paglesfield, Hutton, Essex CM13 1BQ

- 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 James Draper against an enforcement notice issued by Brentwood Borough Council.
 - The enforcement notice was issued on 3 October 2018.
 - The breach of planning control as alleged in the notice is: Without planning permission, the construction of a single storey front extension which has not been built in accordance with the approved planning permission drawings (Application Reference number: 16/01713/FUL) ie an unauthorised mono pitched lean-to roof has been constructed instead of the approved flat roof design, to extended across the whole width of the existing front projection of the building.
 - The requirements of the notice are to:
 1. (a) Demolish the mono pitched lean-to roof of the single storey front extension and construct the approved flat roof design in accordance with, and as shown in, the approved planning permission drawings of application reference: 16/01713/FUL
OR:
 - (b) Demolish the unauthorised single storey front extension (including the mono pitched lean-to roof) and return that elevation of the dwelling to its pre-existing state.
 2. Remove all matter arising from compliance with Step 1 above to an authorised site of disposal.
 - The period for compliance is Six months from the date this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Summary of Decision

1. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out in the Formal Decision.

Preliminary Matter

2. A proposed front extension with a pitched roof was refused planning permission and the decision upheld on appeal in 2016 (*APP/H1515/D/16/3157211*). In 2017, a single-storey extension with a flat roof was granted planning permission (ref 16/01713/FUL), but the development was implemented with a pitched roof which, on the face of it, matched that which had been refused permission. As a result, the Council saw fit to issue an enforcement notice to remedy the breach.

3. The appellant has only appealed against the enforcement notice on ground (a), whereby planning permission is requested by way of the planning application deemed to have been made. Given the circumstances, and as the planning merits and impacts of a proposed pitched roof extension to the front of the dwellinghouse have previously been assessed by an appeal Inspector, the 2016 decision to dismiss the earlier appeal represents a significant material consideration which I must take into account.

The Appeal on Ground (a) and the Deemed Planning Application

Main Issue and Reasons

4. This is the effect of the development on the character and appearance of the host building and its surrounding area.
5. The previous Inspector found that the then proposed front extension, due to its intended design, would have a harmful effect on both the above elements, and would also be contrary to relevant local policy and also advice within the National Planning Policy Framework (the Framework).
6. Since this time there has been a material change in circumstances in that a front extension with a flat roof has been granted planning permission, although the development was implemented akin to the design which had been refused.
7. Although the roof's pitch rises to just below first floor cill height, and the extension fully spans the dwelling's frontage, the fact it is an end-of-terrace property lessens the extension's impact. The local flat-roofed additions visible from the street largely relate to relatively small canopies over front porches. These are only partial width additions, and may be original features, whereas the approved flat-roofed structure, to a depth of approximately 1.8m would, similar to that in situ, extend the dwelling's full width.
8. In its contextual setting I consider that, with the benefit of seeing the extension in place, the pitch serves to temper the roof's expanse. Also, the extension's form is not an untypical addition to dwelling's of this age and style, and examples of such have been photographed and provided by the appellant. The extension is of satisfactory form and appearance and, given my findings, the design objectives of policy CP1 (i) and (ii) of the Brentwood Replacement Local Plan (BRLP) have not been compromised. Neither is the development at odds with the general advice contained in the Framework.
9. This is not, of course, to suggest that householder developments such as this are more likely to be favourably assessed if already built, neither is it an encouragement to build without the benefit of planning permission. Each case must be dealt with regard to its own particular circumstances and the planning merits and impacts involved. In this instance I have merely found that the development, looked at objectively in situ, does not cause any significant visual harm, and it does not detract. Further, given my findings, I am not convinced that the notice's stated alternative to the extension's demolition – that of modifying it to accord with the planning permission granted – would have bettered the situation. Accordingly, I have reached a different conclusion to the previous Inspector.
10. I conclude that the development is not harmful to the character and appearance of the host dwelling nor its surrounding area. There is no material

conflict with BRLP policy CP1 (i) and (ii) nor relevant advice in paragraph 127 of the Framework.

11. For the reasons given above, and having had regard to all other matters raised, the appeal is allowed.

Formal Decision

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 a single storey front extension on land at 3 Paglesfield, Hutton, Essex CM13 1BQ, referred to in the notice.

Timothy C King

INSPECTOR