

Appeal Decision

Site visit made on 29 January 2020

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 03 February 2020

Appeal ref: APP/D5120/C/19/3229018 58 Fendyke Road, Belvedere, Kent DA17 5DP

- The appeal is made by Mr J Singh 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 the London Borough of Bexley Council.
- The notice was issued on 16 April 2019; reference No. 18/00214/ENF.
- The breach of planning control was: Without planning permission, the erection of an unauthorised single storey rear extension, shown in the approximate position outlined and hatched blue on the plan attached to the notice.
- The requirements of the notice are:
 - 1) Remove the rear extension shown in the approximate position outlined and hatched blue on the plan attached to the notice.
 - 2) Remove all resultant materials from the site.
- The period for compliance with the requirements is 3 months.
- The appeal was made on grounds (a) and (g) as set out in the amended Act. 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 property

1. The appeal property, No. 58 Fendyke Road, Belvedere, is a hipped roof 2 storey end of terrace house with a paved area in front and a garden to the rear. Extensions to the side and rear of the house had been added some time before the enforcement notice was issued. There is also an outbuilding in the rear garden. The notice acts against a single storey extension at the rear of the house. The rear extension further extends the depth of the house by some 3.55m along the full width of the house. Its flat roof is 2.8m high.

Planning history

2. Planning application ref: 18/03182/FUL to retain the enforcement notice extension was refused by the Council on 12 February 2019. The reason for refusal said the extension unacceptably extends the depth of the development along the common boundary resulting in harm to the amenity of the houses on each side, Nos. 56 and 60 Fendyke Road.

The appeal on ground (a)

3. The appeal on ground (a) asks that planning permission is granted on the deemed application to retain the single storey rear extension at No. 58.

4. Policy ENV39 to the LB of Bexley UDP says, amongst others, that new developments including alterations and extensions are satisfactorily located and are of a high standard of design and layout. They are to be compatible with the character of the surrounding area and would not prejudice the environment of the occupiers of adjacent property.
5. UDP policy H9 – Extensions and alterations – says that extensions and alterations should meet all 3 criteria - including criterion 2:
the development should not adversely affect the privacy and amenity of residents of adjoining properties including daylight and sunlight and outlook.
6. The Council pointed out that the appeal extension to No. 58 resulted in its rear elevation projecting about 7m further than the rear elevations of the houses on each side, No. 56 to the west, No. 60 to the east.
7. Particularly as the appeal extension runs tight along the shared boundaries with No. 56 and 60 on each side, a somewhat hemmed-in feeling in the amenity areas close to the rear walls of those houses is likely to have been caused by the new walls alongside their shared boundaries. There will have been some diminution of outlook and daylight at the rear of those houses at ground floor level. There will also be some loss of sunlight close to the rear elevation of No. 56 in the morning, and at No. 60 in the evening, with an accompanying reduction in the amenity that may be enjoyed by those living in the houses on each side.
8. The adverse effect is likely to be more significant to those at No. 60 as that house has no rear extension and because the small gap to No. 56 to the west and its own small rear extension may slightly reduce the harm caused. The appeal extension fails to satisfy criterion 2 to UDP policy H9, conflicting with its intention to protect the amenity of adjoining properties.
9. I consider that the level of amenity reduction and harm caused to those at Nos. 56 and 60 Fendyke Road by the appeal rear extension at No. 58 is such that planning permission for its retention should be withheld. The appeal on ground (a) fails.

The appeal on ground (g)

10. The appeal on ground (g) asks that more time is granted to comply with the requirements of the notice. The Council said it was not explained why more time was needed to remove the extension. It is unlikely that they would act immediately if there was a genuine reason for any delay in complying with the 3 month compliance period. The appeal on ground (g) fails.

FORMAL DECISION

11. The appeal is dismissed and the enforcement notice is upheld. Planning permission is not granted on the application deemed to have been made for the erection of a single storey rear extension at No. 58 Fendyke Road, Belvedere, Kent DA17 5DP.

John Whalley

INSPECTOR