



Appeal Decision

Site Visit made on 13 January 2020

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2020

Appeal Ref: APP/P4415/C/3236596

Land at 6 Burns Road, Herringthorpe, Rotherham S65 2QF

- 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 Muhammed B A Mughal against an enforcement notice issued by Rotherham Metropolitan Borough Council.
 - The enforcement notice was issued on 15 July 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised erection of a single storey front extension.
 - The requirements of the notice are:
 - (i) Demolish part of the front extension in order to comply with approved plans under RB2018/1319.
 - (ii) Remove all demolition materials from the land.
 - The period for compliance with the requirements is three months.
 - 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 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 as amended.
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Decision

1. It is directed that the enforcement notice be varied by deleting the wording at paragraph 5(i) and substituting it with "The front extension shall be altered to comply with the terms of the planning permission Ref: RB2018/1319 dated 6 December 2018, including the conditions subject to which that permission was granted."
2. Subject to this variation the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The Enforcement Notice

3. The notice requires part of the front extension to be demolished so that it complies with the plans previously approved by the local planning authority under RB2018/1319. However, planning permission RB2018/1319 also has conditions attached to it, including condition 02 which relates to a requirement to agree the details of the materials to be used to face the front extension. It is therefore necessary for the notice to require the development to not only comply with the approved plans, but also with the terms of that planning permission, including the conditions and limitations of the original planning permission. Otherwise, if the notice is complied with, the whole building will benefit from the grant of a deemed planning permission under s173 (11) of the

Act and this will serve to remove the effect of any conditions on the original permission.

4. I shall therefore vary the notice to include a requirement to comply with the terms of the original planning permission. This variation does not alter the purpose or intentions of the original notice and is made solely for reasons of clarity. I am therefore satisfied that it would not result in any injustice to the appellant or the local planning authority.

Appeal on ground (a), deemed planning application

Main Issues

5. The main issues in this case are the effect on the:
 - character and appearance of the host property and surrounding area; and
 - living conditions of the occupiers of the adjoining property.

Reasons

Character and appearance

6. Burns Road forms part of a residential estate which is characterised by semi-detached properties which have a consistent simple design and regular form. They are generally aligned with modest front gardens enclosed by hedges. These characteristics give the street a distinct rhythm and harmony and contribute to the visual qualities of the area.
7. The appeal property and its adjoining neighbour have been extended to the side with two-storey extensions. These extensions incorporate hipped roofs and reflect the appearance of the host property and give it a balanced appearance.
8. Policy CS28 of the Rotherham Local Plan Core Strategy (adopted 2014) (CS) advises that development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping. Policy SP55 of the Rotherham Local Plan Site and Policies Document (adopted June 2018) (LP) similarly advises that all development, including alterations and extensions to existing buildings should, amongst other things, consider size, scale, mass, form to ensure new development positively contributes to the local character and distinctiveness of an area. Further guidance on design matters is provided in Supplementary Planning Document: Householder Design Guide (adopted March 2014) (SPD) with the overall aim of ensuring that extensions make a positive contribution to the local environment, do not detract from the host property and the street scene, or cause undue harm to neighbouring amenity. Furthermore, this guidance aims to promote good practice and consistency in decision making.
9. Design Guidance 2.4 of the SPD relates specifically to front extensions and porches. Acknowledging that front extensions are eye catching and can significantly alter the appearance of a building, the SPD advises that on semi-detached properties single storey extensions that extend across the entire frontage will normally be refused. In this case, the front extension extends not only across the whole of property's original front elevation, but also in front of its two-storey side addition. Whilst I appreciate that the SPD is only guidance, the extent of the front extension is such that it overwhelms the dwelling's

original front façade. Furthermore, it upsets the balance of the semi-detached property when viewed as a whole and has a dominant and harmful effect on the appearance and original design characteristic of the host property. Consequently, it also has a harmful effect on the street scene, where the surrounding properties are generally free from large front additions.

10. I have had regard to the list of properties which has been provided by the appellant to demonstrate that the Council has previously permitted additions of a similar design to his development. However, none of those other extensions are to properties situated on Burns Road, nor neighbouring Wordsworth Drive or Burns Drive. It is these three streets which I consider to be the context within which the appeal property is viewed. From my own observations on site, only small porch additions were evident on properties in the immediate locality and I saw no front extensions that were of a similar scale to the front extension the subject of this appeal. I therefore give this consideration limited weight.
11. I conclude that the front extension has a harmful effect on the character and appearance of the host property and the street scene. It conflicts with the development plan, and in particular with Policy CS28 of the CS, Policy SP55 of the LP and guidance in the SPD, the aims of which are set out above. I also find conflict with the National Planning Policy Framework (the Framework) which seeks to achieve good design.

Living conditions

12. The front extension abuts the common boundary of the adjoining property. I have taken into consideration the guidance in the SPD that advises that any front extension should not normally project more than one metre where it is within two metres of a neighbouring window. However, in this case the projection is only just over one metre and the neighbour's front window is sufficiently far enough away not to be overshadowed by the extension's flank wall, which is only single storey in height. Whilst there maybe glimpses of the extension's flank wall visible from the neighbour's window, provided the existing block work was faced with brick slips, as suggested, it would not be visually intrusive, and nor does it have an overbearing impact on views from the neighbour's front window.
13. I conclude that the front extension does not have a harmful effect on the living conditions of neighbour residents. Whilst there is some conflict with the SPD, I do not find any conflict with the amenity aims of Policy SP55 of the LP and nor is there any conflict with the Framework which seeks to ensure a high standard of amenity for existing and future users of land and buildings.

Other Matters

14. I appreciate the appellant's concern about the way that the local planning authority have dealt with their applications and the advice they have been given. However, these matters are not for my consideration on this appeal.

Conclusion

15. Although I have found that there is no harm to the living conditions of the occupiers of the adjoining property, I have found that there is a significant and harmful effect on the character and appearance of the host property and surrounding area. The appeal on ground (a) must therefore fail.

Human Rights

16. I have taken into consideration the Human Rights Act, 1998 which enshrines in UK law most of the fundamental rights and freedoms contained in the European Convention on Human Rights. I recognise that dismissal of the appeal would interfere with the appellant's rights under Article 8 and Article 1 of the First Protocol. However, given the harm identified, the action is in accordance with the law and pursues legitimate aims of protecting the environment in the public interest and is necessary and proportionate to the situation.

Overall Conclusion

17. For the reasons given above, I conclude that the appeal shall not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

Elizabeth Pleasant

INSPECTOR