



Appeal Decision

Site visit made on 21 January 2020

by K Stephens BSc (Hons), MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2020

Appeal Ref: APP/T4210/C/19/3230821
90 Cornwall Drive, Bury BL9 9EX

- 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 Mohammed Raza against an enforcement notice issued by Bury Metropolitan Borough Council.
- The enforcement notice was issued on 9 May 2019.
- The breach of planning control as alleged in the notice is: without the benefit of planning permission the erection of a porch on the eastern elevation of the property.
- The requirements of the notice are:
 - a) Demolish and permanently remove the porch
 - b) Following demolition, remove all resulting materials from the site.
- The period for compliance with the requirements is 60 days to complete step a) and a total compliance time of 60 days.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. The prescribed fees have been paid within the specified period. Hence the application for planning permission deemed to have been made under section 177(5) of the Act, as amended, falls to be considered.

Decision

1. It is directed that the enforcement notice be varied by:

- At the beginning of Step 5 *insert* the word "Either".
- At the end of requirement a) *insert* the word "or".
- *Delete* requirement b) and *replace* with "Remove the columns, cladding and overhanging roof and construct the porch and its roof in accordance with the terms and conditions of the extant planning permission ref: 61912 dated 26 October 2017".
- *Add* new requirement c) to read "Following demolition of the porch under a) or its remodelling under b), remove all resulting debris and materials from the site".

Subject to these variations the appeal is dismissed and 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.

Appeal on Ground (a) and the Deemed Application

2. The appellant has made an appeal on ground (a) – that planning permission ought to be granted for the matters alleged in the notice.
3. I consider the main issue is the effect of the development on the character and appearance of the area.
4. The appeal property is a semi-detached dormer bungalow in a predominantly residential area. It is located on a road of properties of a similar design, most of which front the road. This rhythm together with the simplicity of the design of the dwellings contributes to the character and appearance of the area.
5. However, the appeal property is also prominently located on the corner of Cornwall Drive and a cul-de-sac spur. As a result, the front porch, the subject of this appeal, faces the main thoroughfare of Cornwall Drive, rather than the cul-de-sac. According to the submitted annotated plans, the pitched roof porch projects out from the side elevation by 2m and is some 2.7m wide. It has a brick base with the remaining side elevations being glazed and there are windows either side of the solid front door. The door, windows frames and fascia are all coloured dark grey and the red pantiles match those on the main house. The top part of the gable of the porch is clad in white horizontal cladding. The porch roof projects out beyond the porch itself and is supported by two white Doric-style columns.
6. Due to the orientation of the property side-on to Cornwall Drive and its close proximity to the road, the porch is more prominent than other porches. This is exacerbated by the protruding roof and the columns, which enlarge the porch and introduce unduly decorative features at odds with the relative simplicity of design of the surrounding dwellings. The white columns and white horizontal cladding draw attention to the porch further compounding its visual prominence and incongruity. Whilst the columns and cladding could be replaced or painted a darker colour to reduce their visual prominence, the columns and projecting roof still result in an incongruous feature. I accept that the property has been extended over time and is now larger, but in my view the porch, as built, remains visually incongruous and intrusive in the street scene.
7. I therefore find the porch harms the character and appearance of the area. Accordingly, the development is contrary to Bury Unitary Development Plan Policy H2/3 which seeks to ensure that extensions are of an appropriate size, design and external appearance, and are sympathetic with the original building and surrounding area. It would also be contrary to the design guidance in the Council's Supplementary Planning Document 6 – Alterations and Extensions to Residential Properties.
8. I saw on my site visit that a number of other properties further along Cornwall Drive had projecting porches of various designs. These properties are positioned and orientated differently to Cornwall Drive than the appeal property. I have not been advised if these porches have been built under permitted development, have been granted planning permission or are the subject of enforcement action. Nonetheless, they do not alter my findings on the appeal proposal, which I must consider on its own merits.

Appeal on ground (f)

9. The appeal on ground (f) is that the requirements of the notice exceed what is necessary. When an appeal is made on ground (f) it is essential to understand the purpose of the notice. S173(4) of the Act provides that the purpose shall be to remedy the breach of planning control or to remedy any injury to amenity. From the reading of the Notice, it is clear that its purpose is to remedy the breach of planning control by the complete demolition and removal of the porch.
10. The appellant, however, considers that complete demolition is excessive when the Council has already granted planning permission¹ for a porch in this location, albeit with a hipped roof and without the projecting roof, columns and horizontal cladding.
11. In my view, it is clear from the Council's Statement that the white cladding and white pillars are features of the porch which the Council considers particularly offensive and make it too big and incongruous, when compared to the design of porch the Council has already granted planning permission for. Therefore, I consider there are lesser steps that could be taken to remove the offending features, namely removing the white cladding, white columns, pull the roof back and remodel it as a hipped roof, in accordance with the approved scheme. I find that this would be, as provided for in s173(4)(a) of the Act, "remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land".
12. This obvious alternative would make the porch smaller. As such, it would still relate to the whole or part of the alleged breach in the Notice, namely a porch on the eastern elevation of the property. This alternative would overcome the planning harm I have identified and the Council's concerns. There would also be less cost and disruption than total demolition, as the appellant would not have to rebuild the porch again just to implement the already granted scheme.
12. In light of the extant planning permission for a smaller porch, which the Council supports and which would have been subject to public consultation, I consider that complete demolition of the porch is therefore excessive and unnecessary.
13. Therefore, under s176(b) of the Act, I will vary the Notice to amend the requirements to require *either* the complete demolition of the porch, or to only require the removal of the front columns and projecting roof in accordance with the extant planning permission ref: 61912. The appellant therefore has the choice.
14. The appeal on ground (f) therefore succeeds.

Appeal on ground (g)

15. Ground (g) is that the period specified for compliance with the notice falls short of what is reasonable. The notice states 60 days (which would be equivalent to 2 months), but the appellant wants 6 months in order to raise the funds to finance the building works and organise the contractors.

¹ LPA ref: 61912 – dated 26 October 2017

16. It does not take long to find a contractor. Furthermore, the extent of the works are not substantial and 2 months would be an adequate time period in my view. The appellant has been aware of the enforcement process and the requirement to demolish the porch, so there has been time to raise the necessary finances in anticipation of the appeal being dismissed. The appellant has not supplied any compelling evidence as to his personal or financial circumstances that would cause me to take a different view.

17. The appeal on ground (g) therefore fails.

Conclusion

18. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice but with variations and refuse to grant planning permission on the deemed application

K Stephens

INSPECTOR