



Appeal Decision

Site visit made on 17 February 2020

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

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

Decision date: 24 February 2020

Appeal Ref: APP/P4225/C/19/3227277

5 Franklin Street, Canalside, Rochdale, OL16 5JP

- 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 Ms Fahima Abu-Mohamed Al-Faqi against an enforcement notice issued by Rochdale Metropolitan Borough Council.
 - The enforcement notice was issued on 28 March 2019.
 - The breach of planning control as alleged in the notice is without the benefit of planning permission operational development comprising the construction of a second floor rear extension.
 - The requirements of the notice are (a) demolish the second floor rear extension; (b) restore the rear elevation and roof to its former condition; and (c) remove all materials and items resulting from compliance with requirements (a) and (b) from the land.
 - The period for compliance with the requirements is twelve months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (d), (f) & (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. 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 construction of a second floor rear extension on land at 5 Franklin Street, Canalside, Rochdale, OL16 5JP referred to in the notice.

Preliminary matter

2. The appeal on ground (d) has been withdrawn.

The appeal on ground (c)

3. There is no dispute that, if the development was to be assessed under the terms of Class A, Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 [GPDO], then it would not be considered to be permitted development. However, the appellant claims that the building operations are permitted development under Class B. It is not in dispute that the development conforms to the dimensional criteria of this class. However, the Council submits that the development does not conform to conditions B.2(a) and (b)(i).
4. The first of these conditions requires the materials used in any exterior work to be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. It appears from the submitted newspaper articles that the works were commenced in late 2016 or early 2017 and therefore the

Permitted Development Rights for Householders: Technical Guidance [TG] of April 2016 provides the relevant guidance. It indicates that the materials used for facing a dormer should appear to be of similar colour and design to the materials used in the main roof of the house. In this case, the walls are of brick, matching the house walls, rather than tile hung to match the roof. If the development is to be regarded as an addition to the roof, rather than a second floor extension, under Class A, it ought to conform to this requirement.

5. The second condition requires the eaves of the original roof to be maintained or reinstated and the edge of the enlargement closest to the eaves to be not less than 0.2m from the outside edge of the eaves. The TG notes that eaves might be removed temporarily and then reinstated. The appellant points to the retention of a stone corbel which would provide support to the reinstated eaves. However, the evidence indicates that the development was substantially complete for over two years prior to the issue of the enforcement notice. It would have been a far easier job to reinstate the eaves whilst the development was taking place. It therefore appears to me that there was no genuine intention to reinstate the eaves.
6. For the above reasons, the development does not conform to the relevant conditions B.2(a) and (b)(i) and is not permitted development. Accordingly, planning permission was required and the appeal fails on ground (c).

The appeal on ground (a) and the deemed application

7. The appeal property is a modern semi-detached house in a small cul-de-sac. The appellant made a previous application for a large front and rear dormer which was refused by the Council in May 2015 and the subsequent appeal was dismissed in August 2015 (Ref: APP/P4225/D/15/3130144). The Inspector indicated no undue concern regarding overlooking of neighbouring properties, in part because a dormer erected under the GPDO would have a similar impact. I share this view, and therefore consider the main issue to be the impact of the development on the character and appearance of the area.
8. Relevant policies SO3, P1, P3 and DM1 in the Adopted Rochdale Core Strategy, and the accompanying Supplementary Planning Documents, are consistent with the National Planning Policy Guidance in seeking a good standard of design, taking the opportunity to enhance the character and quality of the area.
9. The only public place from which the development can be viewed appears to be from the cul-de-sac at the front, looking at an oblique angle through the gap between this and the neighbouring dwelling, no.3. However, it is clearly visible from a number of neighbouring dwellings to the rear. I agree with the Council that the development, which extends upward, flush with the external walls of the house, is an incongruous and alien addition to the host dwelling. This is due to its sheer bulk and form, which is overly imposing on the host property, unbalances the pair of semi-detached dwellings and detracts from the character and appearance of the area. As such it conflicts with the development plan and national guidance.
10. There are, however, other material considerations to take into account. First, is the realistic fall-back position available to the appellant of erecting a roof extension under the terms of the GPDO. Such a matter appears not to have been raised in the 2015 appeal decision when the issue of character and appearance was being considered. As indicated in para.3 above, a

development of substantially similar form and dimensions could be carried out under Class B, so long as the external materials matched the roof materials and the eaves were retained or reinstated such that a minimum of 0.2m remained to the outside edge of the eaves. When exercising permitted development rights, there is no requirement to have regard to design quality or aesthetics. Accordingly, whilst such a scheme would appear slightly different, being faced in matching roof tiles, it would to my mind be just as visually harmful as the development carried out. It would serve little purpose to require the removal of the development when something only marginally different could be constructed in its place.

11. Turning to the appellant's personal circumstances, she and her husband have seven children, two of whom have serious health considerations that require particular accommodation needs. Whilst I understand the need for additional accommodation, there appears to have been no consideration as to whether this need could have been carried out in a more aesthetically sensitive manner, particularly having regard to her awareness of the earlier appeal decision referred to in para.7 above. Therefore, this consideration alone would not justify allowing a development of unsuitable design.
12. In conclusion, whilst the development conflicts with the development plan and national policy, the weighty material consideration of the fall-back position tilts the balance of my decision towards allowing the appeal on ground (a).

The appeal on grounds (f) and (g)

13. Because of the above conclusion, there is no need to go on to consider these grounds.

B.S. Rogers

Inspector