
Appeal Decision

Site visit made on 18 March 2020

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 20 March 2020

Appeal Ref: APP/W2465/C/19/3242626

1 Mantle Road, Leicester LE3 5HG

- 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 Navneet Aggarwal against an enforcement notice issued by Leicester City Council.
 - The enforcement notice was issued on 3 December 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, the construction of a dormer extension on the elevation of the roof of the Property fronting Mantle Road.
 - The requirements of the notice are
 1. Demolish the dormer extension within/on the roof of 1 Mantle Road.
 2. Remove all debris resulting from the demolition of the dormer extension.
 3. Reinstall the roof of the Property to the state as it was before construction of the unauthorised dormer extension as shown in the attached photograph.
 - The period for compliance with the requirements is 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. The appellant has appealed on ground (f) only and there is no appeal before me on the ground set out in Section 174(2)(a) of the 1990 Act which is that planning permission should be granted for the matters stated in the notice. I am therefore unable to consider the planning merits of the development.

The appeal under ground (f)

3. The appeal on ground (f) is that the requirements of the notice exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. With regard to ground (f), it is essential to understand the purpose of the notice. Under s173(4)(a) of the 1990 Act, one of those purposes is to remedy the breach of planning control by restoring the land to its condition before the breach took place.
4. In the notice, the matters which constitute the breach of control is the construction of a dormer extension on the roof of the appeal building. The steps required to be taken are to demolish the dormer extension and to

remove all debris resulting from the demolition of the dormer extension and to reinstate the roof of the Property to the state as it was before construction of the unauthorised dormer extension as shown in the attached photograph.

5. The purpose of the notice is therefore clearly to remedy the breach of planning control by restoring the land back to its condition before the breach took place. It cannot therefore be argued that the requirements are excessive to remedy the harm. As such, the ground (f) appeal must fail.

Other Matters

6. There have been discussions between the parties with regard to alternative proposals at the appeal building. The appellant has submitted a number of plans with alternative proposals and has submitted Plan H as part of this appeal. Plan H appears to propose a replacement smaller dormer extension. However, as I am only considering the limited grounds of appeal under ground (f), it would be outside the remit of this appeal for me to consider the planning merits of any alternative scheme.
7. The appellant considers that he has been denied the opportunity of making a formal planning application for the development. However, the appellant has chosen not to pursue an appeal under ground (a) which would have brought the planning merits of the development within the remit of this appeal. In addition, no planning application for any alternative proposal was submitted between September 2018 when the Council first observed the development and the service of the notice in December 2019.

Conclusion

8. For the reasons given, the appeal is dismissed and the enforcement notice is upheld.

E. Griffin

INSPECTOR