



Appeal Decision

Site visit made on 25 February 2020

by K Stephens BSc (Hons), MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2020

Appeal Ref: APP/D4635/C/19/3238713

Land at 1a Prestwood Road West, Wolverhampton WV11 1RJ

- 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 Major Singh Gill against an enforcement notice (the notice) issued by Wolverhampton City Council.
 - The enforcement notice was issued on 27 August 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a side and rear single storey extension.
 - The requirements of the notice are to either:
 - Remove the unauthorised extension, OR
 - Build the extension in accordance with the approved plans of planning permission 18/0112/FUL.
 - The period for compliance with the requirements is 2 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. 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.
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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 erection of side and rear single storey extension on land at 1a Prestwood Road West, Wolverhampton WV11 1RJ referred to in the notice.

Procedural Matter

2. Not all the parties attended the site visit, but from what I saw on my visit and from the submitted evidence I have the necessary information to proceed to a decision.

Plans and alleged breach

3. Planning permission¹ was granted for a ground floor rear and side extension, subject to 3 conditions, one of which was that the development should accord with the following drawing "*Elevations, roof plan, location plan and layout Reference 1aPRW-05*". It is clear from the Council's submitted plans and the appellant's submitted drawings marked 'A1' and 'A2' that the approved plans were not a single plan, but in fact a suite of plans comprising Dwg No. 1aPRW-

¹ LPA ref: 18/0112/ FUL dated 30 November 2018

- 04A (proposed front/rear & side elevations), Dwg No. 1aPRW-03A (proposed GF layout and proposed roof layout) and Dwg No. 1aPRW-05 (Block Plan).
4. During construction the appellant made a number of changes to the design of the extensions. There is some dispute between the parties as to the status of a non-material amendment application. However, both parties acknowledge that the Council did not issue written approval for the changes.
 5. The appellant has submitted plans marked 'B1' (Dwg No. 1aPRW-03A) and 'B2' (Dwg No. 1aPRW-04A) to show the amendments to the roof that include a pitched roof extension at the rear that no longer meets the side extension with a hipped roof. However, it was evident from my site visit that the amended roof that has been constructed on the rear extension does not correspond with the design shown on the amended plan 'B2' nor with the written description of the changes on page 5 of the appellant's Statement (in the second numbered paragraph iii)). The plans show, and the Statement describes, the "gable...dropping down to *a flat roof having a rearward projection of 1.5m* [my emphasis]". On my visit there was no flat roof element – the roof was a continuous slope from the ridge to the eaves.
 6. It is not clear whether these changes were made before or after the Council issued the notice. Under s177(1)(a) of the 1990 Act, the grant of planning permission can only be made in respect of the matters stated in the enforcement notice as constituting a breach of control, whether in relation to the whole or any part of those matters. It is thus necessary here to ascertain the nature of the extension as it was when the notice was issued.
 7. The appellant has submitted a photograph taken of the rear of the property which shows the extension. The photograph does not show a flat rearward projecting rear roof, but a continuous roof slope like the one I saw on my visit. In the absence of evidence to the contrary, I am satisfied, that on the balance of probabilities, the extension as built and what I saw on my visit, is what was in place when the notice was issued. It is this that I will assess in the determination of this appeal.

Appeal on Ground (a) and the Deemed Application

Main Issue

8. The main issue is the effect of the proposal on the living conditions of occupiers of No.3 Prestwood Road West with particular regards to outlook.

Reasons

9. The approved plans show a hipped roof on the corner where the single storey rear and side extensions meet, such that the roof of the extension along the shared boundary would slope away from it. However, a mono-pitch roof has been put on the entire roof of the rear extension. Where it meets the side extension, there is now an upright brick wall for part of the shared boundary and the apex of the roof on the rear extension is higher. As a result the occupiers at No.3 look at a triangular section of wall and the rear face of the extension. The remainder of the side extension maintains its mono-pitched format, with the roof sloping away from the shared boundary.
10. The rear extension can be seen from the neighbour's garden and patio and I was also taken into the kitchen and living room on my visit. Because of its

amended design, the roof and triangular section of wall make the rear extension more visually prominent. Furthermore, the amended roof design means that the occupiers of No.3 now see more brick work of the extension from their property, with the triangular section of wall that has been created and its flank wall.

11. Whilst the roof of the rear extension is taller on the shared boundary, it does not exceed the overall approved height of the combined extension, which goes no higher than the first floor rear windows cills. Also it is only the apex of the roof ridge that reaches the tallest height. The remainder of the revised roof continues to slope down to the eaves. As a result the extension and roof is not at the increased height for the length of the shared boundary.
12. From the living room sofa, looking out of the French doors, the flank wall and increased height of the rear extension are visible and would have changed the view from this window. However, views are not protected and the French doors are not the only windows to this room - there is a bay window facing the road. Consequently, the development has not created an unduly oppressive living environment for the existing occupiers of No.3. Views and outlook from the kitchen windows are similarly unaffected.
13. I am satisfied that the development does not result in an oppressive living environment for occupiers and the development does not result in an unduly unneighbourly, dominant and overbearing effect that creates an unsatisfactory outlook for the existing occupiers of No.3.
14. The Council has not raised any concerns about the materials used on the external elevations and I have no reason to take a different view. The Council has not suggested any conditions and I do not consider any conditions to be necessary.
15. I therefore find the rear extension is not harmful to the living conditions of occupiers of No.3 with regard outlook. Accordingly the development is in general conformity with Policies ENV3 and CSP4 of the Black Country Core Strategy and saved Policies D4, D6 and D8 of the Unitary Development Plan. These collectively seek to ensure that development is not obtrusive to adjacent properties, respects the scale of neighbouring properties and does not adversely affect people's amenity in respect of immediate outlook. It would not be in conflict with the design advice the Supplementary Planning Guidance No.4 'Extension to Houses'.

Other Matters

16. I acknowledge the appellant's concerns with the Council's handling of the application and non-material amendment, but in reaching my decision I have been concerned only with the planning merits of the case.

Conclusion

17. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission is granted as stated above without conditions.

K Stephens
INSPECTOR