The Planning Inspectorate

Appeal Decision

Site visit made on 2 June 2020

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2020

Appeal Ref: APP/T0355/C/19/3243627
Copperfields, Waltham Road, White Waltham, Maidenhead SL6 3JD

- 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 Mrs Alexandra Chatzidakis against an enforcement notice issued by Council of the Royal Borough of Windsor and Maidenhead.
- The enforcement notice, numbered 18/50356/ENF, was issued on 25 November 2019.
- The breach of planning control as alleged in the notice is the construction of a car port in the front garden.
- The requirements of the notice are:
  i. Dismantle the car port identified in green on the attached plan, and;
  ii. Remove from the land the dismantled car port and all materials resulting from compliance with step 1.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a) and the prescribed fees have been paid within the specified period, an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. It is directed that the enforcement notice be varied by the deletion of step ii. at paragraph 4 of the notice. Subject to the variation, the appeals are 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.

Procedural matter

2. I note that in paragraph 3 of the enforcement notice, policies in the Borough Local Plan Submission Version (2017) are referred to. As these are emerging policies the parties agree that these policies should be afforded only limited weight. I have no reason to disagree with this view.

Ground (a) and the deemed application

3. An appeal under ground (a) is on the basis that in respect of any breach of planning control, which may be constituted by the matters stated in the notice, planning permission ought to have been granted.

Main Issue

4. Having considered the reasons why the Council issued the notice, I consider that the main issue is the effect of the development on the character and appearance of the area.

Reasons

5. The appeal site is a large detached dwelling with an integral garage, located to the east of Waltham Road. The site lies opposite the entrance and parking area of White Waltham Airfield. There is an open access to the frontage with a low wall and a hedge sited along the boundary to the highway.

6. The wider area is characterised by mainly large detached dwellings set within generous frontages. From the site inspection it is clear that there is some variation to the building line of the dwellings along Waltham Road, resulting in some properties having larger front gardens than others. Off street informal parking within these front gardens is a common feature.

7. The car port comprises three bays and a roof. It has been constructed with a timber frame and is located close to the southern and highway boundaries. It is acknowledged that the boundary between the carport and the highway is currently well screened. Nonetheless, this level of screening may not be permanent and is likely to be subject to change from month to month and year to year. Whilst a condition could be imposed to protect such screening for several years, there is no guarantee that it would remain permanently.

8. The appeal dwelling is located closer to the highway, when compared with others in the area. This results in a smaller front garden. The carport is a significant structure that occupies a large part of the front garden of this dwelling. Whilst views of the development are currently limited as a result of the boundary hedge, it is clearly visible through the ungated entrance from those passing the site. Although it is accepted that the materials used in its construction may be of high quality, the design and timber frame draw attention to its existence within the street scene.

9. My attention has been drawn to other similar development in the area including three properties known as Nilgiri, Hebe Heaven and Hornbeam House. Whilst I have no information about the planning history for any of these sites, I took the opportunity to view them at my site visit. To my mind, there are a number of differences between these and the development subject to this appeal. Both Nilgiri and Hornbeam House are set within significantly larger frontages and appear to be constructed in materials that are more consistent with the design of the host dwellings. These factors when taken together, allow them to integrate successfully with the host properties and the wider street scene. The dwelling at Hebe Heaven has a more contemporary design. Nonetheless, the overall design and appearance of the frontage garage appears consistent with and complements the design of that property.

10. For the above reasons, I find that the car port to the front of the house is not a feature commonly repeated in the area. Moreover, its proximity to the highway, substantial scale and design results in development that is overly dominant in appearance, when viewed in the context of the host dwelling and the surrounding area. Consequently, it is significantly at odds with existing nearby development in Waltham Road and is contrary to its prevailing

character. As such the car port appears as an incongruous feature in the street scene. Accordingly, the development fails to respond to and respect the local character of the area. The resultant harm is in conflict with saved Policy DG1 of the Royal Borough of Windsor and Maidenhead Local Plan (1999). This policy seeks to ensure that the design of new buildings is compatible with the street façade having regard to the scale height and building lines of adjacent properties.

11. I appreciate the appellant's desire to protect vehicles parked to the front of their property from the detritus from neighbouring trees. However, this is not sufficient to justify allowing this appeal.

Ground (f)

12. The appeals on ground (f) are that the requirements of the notice exceed what is necessary to achieve the purpose of the notice. It is the appellant's case that the carport does not need to be removed in its entirety and could be reduced in size by the removal of one or two bays, with the resultant materials retained for future use on the site.

13. The purposes of an enforcement notice are set out in section 173 of the 1990 Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)). In this case the notice requires that the car port is dismantled, and the land restored by the removal of the resultant materials from the land. I therefore consider that the purpose of the notice is to remedy the breach of planning control.

14. An appeal under ground (f) provides some scope for a solution short of a complete remedy. However, any substituted scheme must be precisely defined. The appellant has not advanced details of a scheme that adequately demonstrates how any other lesser steps would fulfil the purpose of the notice. I therefore have no 'worked out alternative', whereby the notice could be varied under ground (f) with the necessary degree of precision to allow part, or parts, of the car port to remain.

15. Turning to the second step, that requires the removal of the resultant materials from the land. As the purpose behind the notice is to remedy the breach of planning control, once the car port has been removed the purpose of the notice has been fulfilled. The car port has been constructed using an oak timber frame and roofing material, which when dismantled could be readily stored on the site. I acknowledge that these oak timbers and roof have an intrinsic value to the appellant and could be utilised legitimately elsewhere on the site. I do not therefore consider that retaining these limited materials would undermine the remedial purpose of the notice.

16. Drawing the above points together, on the evidence I have before me, I find that the remedial nature of the notice requires full compliance through the removal of the car port. Accordingly, in this regard the requirements are not excessive. However, I find that the second requirement, to remove the resultant materials from the land, is excessive and the appeal on ground (f) therefore succeeds to this limited degree. Accordingly, I shall make a minor variation to the notice by removing step ii in paragraph 4.

Conclusion

17. For the reasons given above, I conclude that the appeals should 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 as amended.

Hilary Orr

INSPECTOR