



Appeal Decisions

Site visit made on 28 May 2020

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 23 July 2020

**Appeal Refs: APP/J4525/C/20/3246343 (Appeal A) &
APP/J4525/C/20/3246344 (Appeal B)
20 The Chase, Rickleton, Washington, Sunderland NE38 9DX**

- 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 Dr Philip le Dune (Appeal A) and Mrs Allison le Dune (Appeal B) against an enforcement notice issued by Sunderland City Council.
 - The enforcement notice was issued on 22 January 2020.
 - The breach of planning control as alleged in the notice is: 'Without planning permission, the construction of a flat roofed, single storey extension to the rear of the dwelling, shown more particularly in the plan 'EN Plan 2' attached to the enforcement notice, which was submitted as part of the retrospective planning application reference 19/01641/SUB to retain the development. In particular, the proposed ground floor, proposed rear (north east) elevation, proposed side (south east) elevation and proposed side (north west) elevation.'
 - The requirements of the notice are:
 - (i) Remove the outer leaf of the extension (excepting the windows and doors) and construct a new brick outer leaf on the same alignment, tied to the inner leaf with proprietary wall ties of the appropriate type, spacing and fixing, laid in stretcher bond using bricks and pointing of a similar size, colour and texture to that comprised in the external walls of the main dwelling, OR,
 - (ii) Apply brick slips to the external walls (excepting the windows and doors) of the extension, adhered and pointed in accordance with the manufacturer's recommendations, laid in stretcher bond using brick slips and pointing of a similar size, colour and texture to that comprised in the external walls of the main dwelling.
 - (iii) Reconstruct the roof of the extension in accord with the planning permission granted on 25 January 2019 under reference 18/02103/FUL for a single storey extension to the rear of the dwelling with particular regard to the fascia detail. A copy of the approved plan is attached to the enforcement notice, annotated 'EN Plan 3' which details a flush fascia board approx. 20 centimetres deep.
 - (iv) Remove the two rooflights and replace with clear glazed rooflights of a height not exceeding 3.75 metres above external ground level as detailed in the plan annotated 'EN Plan 3' attached to the enforcement notice.
 - (v) Remove from the land all waste materials arising from compliance with the above.
 - The period for compliance with the requirements is three months.
 - The appeals are proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the appeals have been brought on ground (a), applications for planning permission are deemed to have been made under section 177(5) of the Act.
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Decisions

1. It is directed that the enforcement notice be varied by the deletion of requirements (i) and (ii) and their replacement with the text: 'Finish the external walls of the extension in white or off-white render.'
2. Otherwise, Appeals A and B fail, and the enforcement notice is upheld, subject to the variation above.

Application for costs

3. An application for costs was made by Dr Philip le Dune and Mrs Allison le Dune against Sunderland City Council. This application is the subject of a separate decision.

The appeals on ground (a) and the deemed planning application

Main Issue

4. The main issue is the effect of the development on the character and appearance of the surrounding area.

Policy context

5. On 22 January 2020, the date of issue of the enforcement notice, the development plan in force comprised the saved policies of the Sunderland Unitary Development Plan 1998. Shortly afterwards, the Council adopted the new Sunderland City Council Core Strategy and Development Plan 2015-2033 (CSDP) on 30 January 2020. Accordingly, I have based my consideration on the CSDP policies relevant to this case.
6. The presumption in favour of sustainable development set out in National Planning Policy Framework (NPPF) does not change the statutory status of the development plan as the starting point for decision making. Although the appellants make reference to 'significant adverse impacts', such a test only arises where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, as set out in NPPF paragraph 11d. As noted above, the development plan has recently been adopted and contains relevant policy requirements against which the development falls to be assessed.

Reasons

7. No 20 The Chase is a two storey dwelling occupying a corner location in a primarily residential area. The estate comprises a development of modern detached dwellings set within their own plots. The appellants assert that, due to the various alterations, the prevalent architectural design style is one of incremental change over the years. However, it was my impression that the dwellings in the vicinity, which appear to be of a similar age, largely retain their original design intent despite some minor changes. I therefore agree with the appellants' later statement that the estate is generally uniform.
8. Planning permission (ref: 18/02103/FUL, the 2018 scheme) was granted for the demolition of the previous conservatory and its replacement with a single storey rear extension. Subsequently, a retrospective planning application (ref: 19/01641/SUB, the 2019 scheme) was submitted seeking amendments to the design of the 2018 scheme, but permission was refused.

9. In terms of footprint and general scale, the 2018 scheme and the extension as built appear to be comparable. I note that the Council raise no objection regarding the effect of the extension on the living conditions of neighbours and so these matters are not relevant to my assessment. Within the context of the presumption in favour of sustainable development, there is no dispute between the main parties regarding the economic and social strands of sustainability in this case.
10. Turning to matters of design, the Council's concerns relate specifically to the scale of the rooflights, the use of non-matching materials for the facing of the external walls, and the deep projecting fascia boards.

External materials

11. With regard to the external materials, the walls of the extension were unfinished breeze block at the time of my visit. It appears that the intention is to finish the walls in render instead of brickwork to match the main body of the house. Although red brick is the predominant facing material in the area, I saw several instances of the use of off-white render/dash in the immediate vicinity. Such a mix of materials is therefore clearly a design characteristic of the area.
12. As a result, I am satisfied that the use of render painted in white or off-white would be acceptable for the extension in this context, and would not harm the character or appearance of the surrounding area. The purpose of the notice is to remedy any injury to amenity. As I consider that the finish of the extension in render would not injure the visual amenity of the area, I have directed that the notice be varied to reflect this finding.

Fascia and rooflights

13. I have been provided with a copy of EN Plan 3, which shows the permitted 2018 scheme and includes a larger scale drawing of a typical section for the proposed warm roof detail. A slender fascia board is shown which is set almost flush with the outer leaf of the extension wall. Although dimensions are not indicated on the drawing, the enforcement notice gives the depth of this proposed fascia as approximately 20cm. The appellants do not dispute this figure.
14. On my visit, I saw that the fascia, as built, is the equivalent to the depth of approximately five bricks at the point where it joins the side elevation of the main house. Therefore the fascia is likely to be somewhat deeper than the permitted 20cm. Furthermore, although the side wall of the new extension is flush with the side wall of the main house, the fascia projects significantly and noticeably beyond the line of the side wall.
15. The appellants contend that this depth is required to accommodate the warm roof. However, given that a warm roof had already been specified on the approved plans, there is little explanation as to why this additional depth is now needed. In addition, the appellants state that the fascia hides some unsightly guttering. Nevertheless, on my visit, I saw that externally visible guttering is characteristic of No 20, and of the dwellings in the vicinity. Therefore, there does not seem to be any particular need to hide the guttering within the fascia structure.
16. Due to its excessive depth, and particularly its projection beyond the side elevation of the house, the fascia box adds a bulky, incongruous feature that

- fails to harmonise with the appearance of the house. I saw no other examples of such a design feature in the area. In the absence of any convincing reason for a departure from the permitted design, I conclude that the fascia unacceptably harms the appearance of No 20, and of the wider area.
17. Drawing EN Plan 3 also shows the rooflights that were permitted under the 2018 scheme. These are shown as rectangular openings set just off centre in the flat roof. In terms of height, they are each shown rising to a shallow ridge sitting just below the cill level of the existing first floor windows.
 18. As built, the rooflights comprise tinted glazing within hipped metal frames. In itself, I find this simple modern design to be of some merit. However, they are substantially greater in terms of volume and height than the permitted rooflights, to the point where they dominate the extension in views from the public realm. They partially obscure the first floor windows, resulting in a development that appears disproportionately large against the relatively modest scale of the main house.
 19. In this prominent corner location, the excessive size of the rooflights and fascia combine to produce a development that fails to achieve an acceptable degree of visual subservience to No 20. These elements of the extension thus unacceptably harm the appearance of the appeal site, and hence the character and appearance of the surrounding area. The development thus conflicts with CSDP Policy B2, which seeks to achieve high quality design and positive improvement, and with the NPPF, which states that good design is a key aspect of sustainable development.
 20. As the appeal site is not located in a conservation area, the appellants contend that there should be 'wide latitude' and flexibility as to the design and finish of new developments. In fact, they argue that the 'lightest touch possible' in design terms should be applied in this particular location. However, this position is not reflected in national or local policy.
 21. Within the NPPF, the chapter entitled 'Achieving well-designed spaces' stands entirely alone from the chapter on 'Conserving and enhancing the historic environment', indicating that good design is to be sought in all locations, regardless of the absence of any statutory designations. Planning decisions are to ensure that development is 'sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change'¹. Whilst a degree of variety is allowed for, this must be suitable and justifiable. In view of the harm I have identified, I am satisfied that these requirements are not met by the development.
 22. Although there is a degree of screening of the site by trees and planting, this cannot be relied upon to mitigate the harmful effects of the scheme, as the vegetation could be cut back or removed at any time.
 23. My attention has been drawn to section 9 of CSDP Policy BH1, which seeks to maximise the opportunities for buildings and spaces to gain benefit from sunlight and passive solar energy through development. However, little detailed or technical evidence has been presented to show the benefits of the

¹ NPPF paragraph 127

unauthorised scheme over and above the 2018 scheme in this regard, which limits the weight I can give to this particular matter.

24. The appellants make reference to permitted development rights whereby up to 50% of the curtilage of the house could be covered by an outbuilding. However, no such scheme is before me, and so I am unable to draw a meaningful comparison with the appeal scheme. Moreover, any development constructed under PD rights would be lawful by definition and would not fall to be considered against the relevant policies. This would also be the case for other examples the appellants refer to, such as brightly painted doors or boundary treatments.
25. I have taken into account the representations of support of the development, but these have not led me to a different conclusion.

Conclusion

26. I have found a painted render finish for the extension to be acceptable in terms of impact on the character and appearance of the surrounding area. This element of the scheme would comply with CSDP Policy B2 and the development plan as a whole. Conversely, I have found that the rooflights and the fascia design are unacceptably harmful to visual amenity, and thus conflict with CSDP Policy B2 and the development plan as a whole.
27. For the reasons given above, I conclude that the appeals should partially succeed in respect of the render finish only. Otherwise, they are dismissed, deemed planning permission is refused, and the enforcement notice is upheld subject to variation.

Elaine Gray

INSPECTOR