



Appeal Decisions

Site visit made on 13 October 2020

by Thomas Shields MA DipURP MRTPI

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

Decision date: 09 November 2020

Appeal Ref: APP/D1590/C/20/3251169

21 Holland Road, Westcliff-on-Sea, SS0 7SG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (hereafter “the Act”).
 - The appeal is made by Mr Julian Nyman (Wyen Corporation Limited) against an enforcement notice issued by the Southend-on-Sea Borough Council.
 - The enforcement notice was issued on 23 March 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a dormer roof enlargement.
 - The requirements of the notice are:
 - a) Remove the unauthorised roof enlargement or reduce it to that approved under application reference 18/01188/FUL.
 - b) Remove from site all rubble, materials and equipment associated with complying with this notice.
 - The period for compliance is 3 months.
 - The appeal proceeds on the grounds set out in section 174(2) (a) and (g) of the Act.
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Decision

1. It is directed that the notice be varied in Section 6 by deleting “3 calendar months” and substituting instead “6 months”.
2. Subject to the variation the appeal is 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 Act.

The appeal on ground (a)/deemed planning application

Main Issue

3. An appeal on ground (a) is that planning permission ought to be granted for the dormer roof enlargement. The main issue in the appeal is the effect of the dormer on the character and appearance of the host property and the area.

Reasons

4. No. 21 Holland Road is an extended mid-terraced residential property within an immediate area that is primarily residential in character. Buildings in this area are mainly of traditional construction and form with some modern flatted developments. The building has been divided into two flats, one at ground floor with the other occupying the first floor and roof accommodation, provided in part by the rear box dormer roof extension subject of the appeal.
5. The dormer is of a considerable height, width and depth, the front wall of which aligns vertically with the rear elevation of the main building. As such, I find it

to be a significant feature and conspicuously over-sized in the context of the host building. Its overly prominent presence, not set back from the original eaves, appears as an additional full storey and does not sit well with the more modest features and character of the host property, or with other buildings in the surrounding area. As such, it conflicts with the detailed design guidance for dormers in the Council's SPD¹. While I saw other rear roof dormers in the surrounding area, none had resulted in the excessively dominant appearance and relationship with their host properties that is evident in this case. While I acknowledge that public views of the dormer are limited it is nonetheless highly visible from a significant number of nearby properties. Consequently I find it overall to be markedly at odds with the prevailing pattern of development in the area, harmful to its character and appearance.

6. The appellant suggests its appearance could be mitigated by imposing a condition which requires the construction of an extended eaves and fascia along the line of where the dormer joins the rear elevation of the building, thereby adding a line of tiled roof slope below the bottom of the dormer.
7. The proposal to create new false eaves and an extended roof slope over is not properly comparable to the requirement in Schedule 2, Part 1, Class B of the GPDO² to maintain or reinstate eaves of the "*original roof*". Moreover, it would do no more than add further built form in addition to that which currently exists, and would not have any physical or optical effect of reducing the bulk and prominence of the dormer which I have found to be harmful as set out above. As such, I do not agree with the appellant's contention that the dormer would then be little different in form and appearance from the one previously granted planning permission by the Council (Ref: 18/01188/FUL). Overall, therefore, the appellant's proposed condition does not persuade me that the appeal should be allowed.
8. I have also considered whether the imposition of any other planning conditions would adequately mitigate the harm I have identified but find that there are none that would do so.
9. I note the concerns of occupiers of the bungalow to the rear of No. 21 with regard to their living conditions in respect of loss of light, privacy and outlook. The separation distance over a shared courtyard area between these two properties is approximately 4 metres. Consequently, given this existing constrained relationship, and that which would exist had the dormer been built in accordance with planning application Ref: 18/01188/FUL, I find that the as-built dormer does not result in any significant increase in harm to the living conditions of the neighbouring occupiers.

Conclusion on ground (a)/deemed planning application

10. For these reasons I conclude that the dormer results in unacceptable harm to the character and appearance of the area in conflict with Policies KP2 and CP4 of the Southend-on-Sea Core Strategy(2007), and Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015), which, taken together, seek to secure developments which improve the urban environment through quality design, and maintain and respect the character of residential areas including through height, size, scale, form, massing, and proportions.

¹ Supplementary Planning Document 1 Design and Townscape Guide 2009, paragraphs 343, 366

² Town and Country Planning (General Permitted Development) (England) Order 2015

11. The appeal on ground (a)/deemed planning application therefore fails.

The appeal on ground (g)

12. The ground of appeal is that the period of time for compliance with the enforcement notice requirements falls short of what should reasonably be allowed. The notice requires compliance within 3 months, the appellant seeks a period of 7 months.
13. I am mindful that the harm resulting from the breach of planning control should be remedied as soon as possible, and I see no reason why the physical works to achieve compliance with the notice could not ordinarily be carried out within 3 months. No convincing justification as to why this would not be possible is before me.
14. I do not know when the current tenancy agreement with the occupier of the upper level flat expires. However, there is no evidence before me to indicate that the tenant would resist allowing remedial works to take place within the 3 month period, or that the tenant would seek to resist eviction in the event that the appellant subsequently finds such action necessary in order to comply with the notice requirements. That notwithstanding, I acknowledge that scheduling builders and completing the remedial works with a sitting tenant could take longer than 3 months.
15. Also, at the time of writing, the Government has introduced a one month period of restrictive measures in respect of coronavirus, during which time I accept it may add further difficulty in commencing the remedial works. Account should also be taken of the Christmas/New Year holiday period.
16. Taking account of all these factors I consider it would be more reasonable to extend the compliance period to 6 months. I see no reason to extend it further than this given that the Council has its own powers to extend the compliance period if they are subsequently convinced that such action would be necessary.
17. The appeal on ground (g) therefore succeeds to this limited extent and I have directed that the notice be varied accordingly.

Thomas Shields

INSPECTOR