



Appeal Decisions

Site visit made on 27 October 2020

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2020

Appeal A: APP/V1260/C/20/3255084

Land at 133-135 Cranleigh Road, Bournemouth

- 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 J Redmond against an enforcement notice issued by Bournemouth Christchurch & Poole Council.
 - The enforcement notice was issued on 19 May 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission, an increase in height and bulk of extension to east side of the development granted under planning approval reference 7-2012-20097-F from single to 2 storeys and addition of two rooflights at first floor level.
 - The requirements of the notice are: Reduce the height of the extension to the east side of the development from 2 storey to 1 storey and complete the development in accordance with that shown approved on drawing no. 3907:13B of planning approval reference: - 7-2012-20097-F.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since the appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal B: APP/V1260/C/20/3255085

Land at 133-135 Cranleigh Road, Bournemouth

- 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 J Redmond against an enforcement notice issued by Bournemouth Christchurch & Poole Council.
 - The enforcement notice was issued on 19 May 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission, the sub-division of the existing building into 3 self-contained units of living accommodation on the ground floor and three self-contained units of living accommodation on the first floor (in breach of planning approval ref: 7-2012-20097-F for erection of a 2 storey block of 3 flats and formation of vehicular access and parking spaces – Application for reserved matters in respect of application no. 7-2010-20097-D).
 - The requirements of the notice are: Reduce the number of units of living accommodation from 6 to 3 in accordance with the layout shown drawing reference: - 3907:11A of planning approval reference: - 7-2012-20097-F.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Summary of Decisions

Appeal A

1. The appeal is dismissed and the enforcement notice is upheld with a correction and variation.

Appeal B

2. The appeal succeeds and the enforcement notice is upheld as varied in the terms set out below in the Formal Decision.

Appeal A - The Enforcement Notice

3. The parties acknowledge that the enforcement notice incorrectly refers to the development attacked as being to the '*east side*'. However, the first-floor addition is more accurately described as being on the '*south-western side*'. Such a correction can however be made without causing injustice to the parties, which I shall do in my Formal Decision below.

Appeal A - The ground (a) appeal

Main Issues

4. The main issues are the effects of the first-floor addition on the character and appearance of the area and living conditions of neighbouring occupiers.

Reasons

5. The site consists of a two-storey building containing flats. There is some limited car parking to the front. The character of the immediate area is primarily residential, albeit there is a public house opposite the site. The area has a consistent street pattern and rhythm, with residential properties occupying modest plots. The development attacked by the enforcement notice relates to a first-floor addition to the south-western side of the building.

Character and appearance

6. The first-floor addition is constructed from matching materials. It is set-back from the façade of the building and to the front there is one ground-floor window facing the road.
7. In an area where there is otherwise a consistent street-pattern, given its relationship at the end of Athelstan Road, neighbouring Nos. 133-135 Cranleigh Road, the first-floor addition does not appear overly large or unduly affect spacing between buildings.
8. However, the first-floor addition is not representative of other built form within the street-scene. Owing to the design of its roof, which has a particularly awkward relationship with the main roof of the building, consisting of a flat roofed section, it results in an incongruous juxtaposition that is conspicuous within both street-scenes as well as from the junction with Merrivale Avenue. This roof form is therefore particularly visible and conspicuous from a number of public vantage points.
9. The first-floor addition is therefore of poor design and out of keeping with the character of the existing building and area. It does not complement the character and rhythm of neighbouring development or assimilate into the

street-scene. It also comprises a blank first-floor wall and different eaves heights. The entirety of the building is therefore perceived differently and is not of high quality as a consequence.

10. I conclude that the first-floor addition is harmful to the character and appearance of the area in contravention of Policy CS41 of the Bournemouth Local Plan Core Strategy, October 2012 (the CS) and Policy 6.8 of the Bournemouth District Wide Local Plan, February 2002 (the LP). These policies, amongst other things, require development to be well designed and of a high quality and complement and respect the character of neighbouring development. For the same reasons it contravenes the Residential Development A Design Guide, adopted September 2008 (the SPD), and the achieving well-designed places objectives of the National Planning Policy Framework (the Framework).
11. The Council has also referred me to the Residential Extensions A Design Guide for Householders, adopted September 2008. However, I afford this SPD only limited weight in the context of this appeal as it relates to individual properties and household extensions, which is not the case here as the appeal building is a flatted development.

Living conditions

12. The first-floor addition is within reasonably close proximity of the rear of Nos. 133-135 Cranleigh Road. This property consists of flats which are said to have their living rooms at the rear; thereby facing the appeal site.
13. Whilst the first-floor addition is higher than that approved, its height and scale does not project significantly beyond the plane of the main roof of the appeal building, as it is of a similar roof pitch. It therefore does not result in an oppressive or overbearing relationship with the flats in this neighbouring property in this regard.
14. There is little evidence before me that the footprint of this part of the appeal building has encroached closer to the neighbouring property and there is no direct overlooking between the properties, given the respective positioning of windows. I am therefore not persuaded on the evidence before me that the first-floor addition results in an un-neighbourly relationship or one that adversely affects existing residents.
15. I conclude that the first-floor addition is not harmful to the living conditions of neighbouring occupiers. In this regard it accords with the previously aforementioned policies of the CS and LP as well as the SPD, which seek, amongst other things, to ensure that existing residents are not adversely affected by new development.

Other Matters

16. I appreciate the appellant has raised various sections of the Framework, but the enforcement notice only attacks a first-floor addition. There is no ground (a) appeal before me in respect of Appeal B in order to consider matters such as, for example, the resultant loss of housing.

Conclusion

17. Whilst I have found the first-floor addition would not be harmful to neighbouring living conditions, it nevertheless remains harmful to the character and appearance of the area. For this reason and having regard to all other relevant matters raised, I conclude that the appeal on ground (a) should fail.

Appeals A and B - The ground (g) appeals

18. The appellant contends that the time given to comply with the requirements of the enforcement notices are too short as a period of 9 months is necessary. This is because the works required by both notices are said to not be straight forward and it will be necessary for the tenants to first vacate the building, which also means a requirement for them to find alternative accommodation.
19. Whilst there is only very limited evidence concerning the availability of suitable alternative accommodation, I accept it will be necessary for the tenants to vacate the building. The works required to comply with both notices are also very likely to be undertaken at the same time.
20. I appreciate there has been a period of time before the issue of the enforcement notices, and therefore the appellant may have been aware of the Council's intentions. However, he also has the right to appeal the notices, is entitled to assume success, and, to a reasonable period for compliance after the notices take effect. Any time deemed to have been given by the Council beforehand is therefore not relevant in these regards. I am, on-balance, satisfied that an additional period of 3 months will therefore enable the tenants to first vacate and then for the required works to be undertaken, without unnecessarily perpetuating the breaches of planning control.
21. To this extent the appeals on ground (g) succeed.

Overall Conclusions

Appeal A

22. For the reasons given above I conclude the appeal should not succeed. I shall uphold the enforcement notice with a correction and variation and refuse to grant planning permission on the deemed application.

Appeal B

23. For the reasons given above I conclude that a reasonable period for compliance would be 9 months, and I am varying the enforcement notice accordingly, prior to upholding it. The appeal on ground (g) succeeds to that extent.

Formal Decisions

Appeal A

24. It is directed that the enforcement notice be corrected and varied by:
- substituting '*south-western side*' for '*east side*' throughout the notice.
 - substituting '*9 months*' as the time for compliance with the notice.
25. Subject to this correction and variation the appeal is dismissed and 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.

Appeal B

26. The appeal is allowed on ground (g), and it is directed that the enforcement notice be varied by the substitution of '9 *months*' as the period for compliance. Subject to this variation the enforcement notice is upheld.

Paul T Hocking

INSPECTOR