



Appeal Decision

Site visit made on 7 October 2020

by JP Roberts BSc(Hons) LLB(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2020

Appeal Ref: APP/V1260/C/20/3256039

5 Michelgrove Road, Bournemouth, Dorset BH5 1JH

- 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 Ms Katherine Orr against an enforcement notice issued by Bournemouth, Christchurch and Poole Council.
- The enforcement notice was issued on 18 June 2020.
- The breach of planning control as alleged in the notice is:

On 17th October 2017, planning permission reference 7-2017-9996-B was granted for alterations and extensions to dwellinghouse to include extended balcony. In granting planning permission, a condition was imposed requiring the development permitted to be carried out in accordance with the following approved plans: 1714 P106A and 1714 P107A (condition no.1 of planning approval reference: 7-2017-9996-B refers).

The condition has not been complied with as the balcony and fenestration have not been constructed in accordance with the approved plans. The works that have been carried out are materially different. The approved balcony was semi circular whereas the balcony as built is rectangular in shape and is larger. The approved plans showed the new balcony sited on top of an existing extension. The extension has been rebuilt with much wider bay windows and large plate glass windows rather than windows with transoms and mullions.

- The requirements of the notice are:

Either: -

Carry out remedial works so that the alterations and extensions to the dwellinghouse are built in accordance with terms (including conditions) of the Planning Permission 7-2017-9996-B granted on 13 October 2017 and as shown on plans 1714 P106A and 1714 P107A, all attached at Appendix B;

Or

Carry out remedial works to reinstate the property to its previous size, appearance and material finish in accordance plans 1714 P102, 1714 P103 and 1714 P104 submitted as part of Planning application 7-2017-9996-B, the plans all attached at Appendix C.

- The period for compliance with the requirements is 6 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. Since an 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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Decision

1. It is directed that the enforcement notice is corrected by substituting "13th" for "17th" in the first line of the description of the breach of planning control. Subject to this correction 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 development already carried out, namely the construction of a balcony and fenestration at 5 Michelgrove Road, Bournemouth, Dorset BH5 1JH as shown on the plan attached to the notice and subject to the following condition:

1. All the privacy screens on the second floor balcony on the side elevations shall be retained to ensure that they restrict overlooking. Furthermore they shall be glazed and/or treated to ensure that the glass is obscured to a level equivalent to Pilkington Level 3 or above (or the nearest equivalent standard) and shall be permanently retained and maintained to such a level unless otherwise agreed in writing by the Local Planning Authority.

Procedural matter

2. The description of the alleged breach of planning control gives the date of the relevant planning permission as 17th October 2017, whereas the correct date is 13 October 2017. There is no uncertainty as to which planning permission is being referred to, and I shall therefore correct the notice to refer to the correct date. No one would be prejudiced by my doing so.

Appeal on ground (a) – that planning permission should be granted

Main Issues

3. The main issues are:
 - i) the effect of the development on the character and appearance of the surrounding residential area, and
 - ii) the effect of the development on the living conditions of the occupiers of 7/9 Michelgrove Road with particular regard to privacy.

Reasons

Background

4. The background to this appeal is that planning permission was granted on 13 October 2017 (LPA Ref: 7-2017-9996-B for “alterations, extensions to dwellinghouse to include extended balcony”. The approved balcony resulted in an enlargement of an existing balcony, which brought it closer to the rear and to the sides than the existing one. The existence of this approved scheme is a material consideration in my consideration of the planning merits of the development being enforced against.

The effect on character and appearance

5. The appeal property is a three-storey detached house in a road comprising other detached properties, most of which have been substantially altered. Large blocks of flats lie to the north and south of the site.
6. The development, as carried out, varies from the approved plans in two significant ways. The first relates to the balcony. As approved, the balcony was shown as being contained by a gently curved glass wall. Whilst a glass enclosure has been provided, it is straight and angled at the sides. In order to mitigate overlooking three glass screens have been provided to the sides, one on either side at a high level, as approved, and another one on the east side of

the balcony, which screens views of the neighbouring property at 7 Michelgrove Road.

7. As the Council concedes, the rear elevation of the property is not as important as the front elevation, and it is not prominent in public views. Whilst the rear elevation can be seen from between blocks of flats on The Marina, views of it are both fleeting and distant.
8. The glass wall to the balcony lacks the graceful line of the approved enclosure. However, the straight wall is consistent with balconies on other properties nearby, and being transparent, it is not a conspicuous feature on the rear elevation. The additional side screen disrupts the symmetry of the rear elevation, but again, because it is a relatively small, opaque sheet of glass, its visual impact is strictly limited to short-range views, and being high up on the building, it does not materially harm the appearance of the building or the surrounding area.
9. The rear-facing windows at first floor level have not been constructed as shown on the approved plans. The approved scheme shows smaller, multi-pane windows with a vertical emphasis, with transoms and mullions. Instead, two large windows have been inserted, with smaller, sub-divided windows on the returns to the bay. I accept that the two large windows do not reflect the pattern of the windows on the ground and second floors. However, those on the second floor are recessed from the main rear elevation, behind the glass balcony, which provides a horizontal emphasis which the windows echo. The wide windows also reflect the proportions of the rear elevation, which is wider than it is tall.
10. Moreover, both the appeal property and the one next door at 3 Michelgrove Road have undergone substantial alterations to their roofs, resulting in dissimilar treatments, with the one at No 3 having a balcony behind an open gable, whilst the one at No 5 has a balcony below a cut back roof. In both cases, these alterations have affected the traditional lines of the dwellings, so greater latitude can be afforded to non-traditional fenestration.
11. In the wider context, the building at 17 Michelgrove Road, near to the junction with The Marina and which is much more prominent in public views, has large windows at first floor level, set at angles to the main elevation. The much larger-scale blocks of flats which surround the appeal site create diversity in the scale, form and design of built development and thus the windows do not harm the overall appearance of the area.
12. I therefore conclude on the first main issue that the development does not materially harm the character or appearance of the surrounding residential area, or conflict with Policy CS41 of the Bournemouth Local Plan: Core Strategy (2012) which deals with design quality.

The effect on living conditions

13. The most significant difference between the balcony as erected and that as approved is that the approved balcony rail was curved, whereas the balcony as erected is mainly straight with angled segments. The balcony as erected is nearer to the boundary with 7 Michelgrove Road in one part and slightly further away in another. A window serving a bathroom in the side elevation of No 7 has been screened by two obscurely glazed screens, one atop a side wall, and

another, a side screen. The latter screen prevents views of the bathroom being seen, and adequately mitigates overlooking. The balcony is, in places, slightly closer to the rear than the approved balcony, by about 0.3m or so. I saw on my visit that this has an almost negligible effect on the extent of overlooking of the neighbouring property, its sunroom and garden, over and above the approved scheme.

14. I therefore find that the balcony as constructed does not result in material harm to the living conditions of the occupiers of 7/9 Michelgrove Road, and does not conflict Policy CS41 or the Council's Supplementary Planning Document *Residential Extensions Design Guidance for Householders*

Other matters

The occupiers of the neighbouring property at 7/9 Michelgrove Road are concerned about the possibility of the strong winds affecting their safety, both in terms of items being blown off the balcony and in respect of the stability of the screens. In respect of the former, there was a balcony there previously, and the approved scheme provided for an enlarged balcony. I consider that there would be no significant increase in risk from the larger balcony as constructed. With regard to the screens, materials and workmanship are matters covered under the Building Regulations, but in any event, I see no reason why screens could not be affixed to withstand even high winds.

Conditions

15. In order to ensure that the privacy of neighbours is protected, I shall impose a condition requiring the screens to be retained to a standard to provide suitable obscuring.

Conclusion

16. For the reasons given above, I conclude that the appeal should succeed on ground (a) and that planning permission should be granted on the deemed application for planning permission for the development described in the notice. I shall therefore quash the notice.

JP Roberts

INSPECTOR