



Appeal Decisions

Site visit made on 24 November 2020

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 December 2020

Appeal A Ref: APP/J1915/C/20/3252651

24 Hadham Road, Bishops Stortford, Hertfordshire CM23 2QS

- 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 Manjur Choudhury of Zara Indian Dining against an enforcement notice issued by East Hertfordshire District Council.
- The enforcement notice was issued on 14 April 2020.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey side extension which comprises a raised terrace area and open sided structure which is set beneath a shallow pitched roof.
- The requirements of the notice are to remove the unauthorised single storey side extension which comprises of a raised terrace area and open sided structure which is set beneath a shallow pitched roof, with the removal of any associated waste/material resulting from the above.
- The period for compliance with the requirements is six 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.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Appeal B Ref: APP/J1915/W/20/3248716

24 Hadham Road, Bishops Stortford, Hertfordshire CM23 2QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Manjur Choudhury of Zara Indian Dining against the decision of East Hertfordshire District Council.
- The application Ref 3/19/2405/FUL, dated 26 November 2019, was refused by notice dated 22 January 2020.
- The development proposed is described on the application form as "*retrospective application for a staff/customer's smoking area with shallow pitched roof and open sides*".

Summary of Decision: The appeal is dismissed.

Appeal A, Ground (a) and Appeal B

Main Issue

1. The main issue in these appeals is whether the single storey side extension preserves the character or appearance of the Bishops Stortford Conservation Area (CA).

Reasons

Whether the character or appearance of the CA is preserved

2. The appeal site contains a former public house, now used as a restaurant. The building is of traditional character, probably originating in the 19th Century. The building has a two storey core with single storey wings and there is an outbuilding at the rear. The building occupies a prominent location, adjacent to the junction of a main road and a local street. There is a parking courtyard alongside, which is enclosed by varying built forms of traditional origin. The building and adjoining built forms, together with the large villas and trees along the main road referenced in the Conservation Area Appraisal (CAA), are all clear evidence of the outward expansion of the town from the 19th Century onwards. For the above reasons, although I am not aware that the building is specifically referred to in the CAA, it nevertheless makes a significant contribution to the character and appearance of the CA.
3. The single storey side extension adjoins a pre-existing single storey wing at the side of the building. It covers a customer seating area adjacent to the parking courtyard. The extension is set back slightly from the front elevation of the building. The extension has low walls formed of horizontal timber planking, above which the sides are largely left open. Timber trellises are attached to the upper sides, below the eaves level. There are trailing plants in planters in the top of the walls and on the trellises. Several timber uprights support a dual pitched roof. The roof gable on the end elevation is clad in timber. All the timber is painted a dark grey colour, whilst the roof is covered with light green colour felt with a tile effect pattern.
4. The extension is open to views from the main road, where it is seen in conjunction with the front and side elevations of the building. Notwithstanding the largely open sides, the extension is not perceived as a lightweight structure. The dimensions of the extension are not dissimilar to those of the adjacent wing of the building. The cumulative effect of the solid timber walls, uprights, trellises and the roof structure mean that the extension has an appreciable sense of robustness and permanence. The planting has had a limited effect in terms of breaking up the bulk of the extension. It follows that although the extension is of modest proportions compared to the overall size of the building and other development in the vicinity, it is nevertheless perceived as a built feature of significant scale.
5. The pitch of the extension roof is at a considerably shallower angle compared to the roof profile of the adjacent wing and that of other parts of the building. Steeper roof profiles are a part of the building's inherent character. The different roof profile of the extension is readily apparent from the main road, creating a sense of conflict with the building and also giving the extension a rather squat appearance. Furthermore, the extension has a noticeably higher eaves line than the adjacent wing. The failure to respect the eaves line of the wing accentuates the sense of visual disruption in relation to the building. As steeper roof profiles similar to the building are to be found on many of the built forms in the locality, the extension also does not relate well to surrounding development.
6. The timber on the external walls of the extension is distinctly different in terms of its finished appearance and profile to the traditional rendered finish of the walls of the building and is also likely to have different weathering qualities.

Further, on account of their flat profile the timber walls are not of sufficiently similar appearance to the overlapping timber weatherboarding walls of the rear outbuilding and an adjoining building. In addition, the use of light green felt on the extension roof does not pay sufficient regard to the darker, more neutral colour and textured profile of the slate covering on the building's roof, or the colour and profile of clay tiles covering the rear outbuilding roof. Neither are the extension wall and roof finishes similar to those of other buildings in the locality. Consequently, the external materials and finishes of the extension fail to respect those of the building and surrounding development.

7. Due to all the above factors, the extension is entirely at odds with the traditional character, form and materials of the building and those of surrounding development, it is awkwardly related to and does not integrate satisfactorily with the building and its surroundings, appearing as an alien feature in the street scene. Accordingly, the extension fails to preserve the character or appearance of the CA.
8. Therefore, the extension fails to accord with Policy DES4 of the East Herts District Plan (LP), not being of a high standard of design that respects the character of the site and the surrounding area in terms of its mass, siting and building materials. Also, the extension does not accord with LP Policy HA1, as the historic environment is not preserved. Furthermore, the extension fails to accord with LP Policy HA4, as it does not use materials and adopt design details that are traditional to the area, its scale, proportions, design and overall character do not complement the surrounding area and it is not complementary and sympathetic to the building; therefore the special interest and character and appearance of the area is not preserved. There is also conflict with Policy HDP2 of the Bishops Stortford Neighbourhood Plan for Silverleys and Meads, this document being referred to in the Council's statement. This is because the extension is not of high quality, does not empathise with its setting and does not have materials in keeping with and complementing the existing character. Additionally, the failure to conserve the historic environment is inconsistent with the National Planning Policy Framework (the Framework) at section 16.

Planning Balance

9. The harm to the significance of the CA caused by the extension is 'less than substantial' as meant by the Framework paragraph 196. Therefore, it is necessary to weigh that harm against any public benefits. Activity associated with the customer seating might well contribute to an active frontage. I am also mindful of recent legislative changes designed to encourage outdoor customer seating at restaurants, to help sustain businesses and their associated employment during the COVID-19 pandemic. However, there is no firm evidence that outdoor customer seating would not continue to be provided at the site. Therefore, any benefit offered by the extension in the above respects can only be afforded limited weight. Although the extension has not physically affected features described in the CAA, referred to above, that does not equate to a benefit. I understand that the extension is a covered facility for staff and customers to smoke. Even so, there is no obligation to make such provision and I regard this as a private benefit. Accordingly, any public benefits do not outweigh the harm to the significance of the CA.

Conclusion on Appeal A, Ground (a) and Appeal B

10. The extension does not preserve the character or appearance of the CA and it fails to accord with the Development Plan. The harm to the significance of the CA is not outweighed by any public benefits. Therefore, I conclude that the appeal on ground (a) in Appeal A together with Appeal B should not succeed.

Ground (g) appeal

11. The ground of appeal is that the period for complying with the notice requirements is unreasonably short.
12. In my view, six months affords ample time to find and appoint a contractor to carry out the required remedial works, even when regard is had to the circumstances arising from the COVID-19 pandemic. There was no firm evidence to suggest that appointing a suitable contractor and arranging for them to undertake the works would be a particularly lengthy process. As the extension is mostly made up of prefabricated materials, its removal is likely to be a relatively small-scale operation, largely undertaken by hand. It is therefore likely to be a reasonably straightforward matter for a contractor to complete such works comfortably within a few weeks at most. Although I appreciate that the extended closure of the restaurant during the pandemic is likely to have severely affected the appellant's finances, such works are unlikely to be particularly costly. Six months also provides ample time for the appellant to seek and secure any necessary finance. The compliance period therefore allows for contingencies or other uncertainty caused by the pandemic. As a result, extending the compliance period to twelve months would perpetuate the breach and the associated planning harm.
13. Therefore, the ground (g) appeal also fails.

Conclusion

14. For the reasons given above I conclude that Appeal A should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application. For similar reasons I conclude that Appeal B should be dismissed.

Formal Decisions

15. Appeal A-the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.
16. Appeal B-the appeal is dismissed.

Stephen Hawkins

INSPECTOR