



Appeal Decision

Site visit made on 18 May 2021

by Thomas Shields MA DipURP MRTPI

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

Decision date: 17 June 2021

Appeal Ref: APP/B0230/C/21/3268038

27 Stockingstone Road, Luton, Bedfordshire, LU2 7ND

- 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 Mohammed Naveed Akhtar against an enforcement notice issued by the Luton Borough Council.
 - The enforcement notice was issued on 22 December 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a rear dormer extension.
 - The requirements of the notice are:
 - (i) Remove the rear dormer from the land.
 - (ii) Remove all fittings and fixtures associated with the rear dormer from the land.
 - (iii) Remove all associated building materials and rubble and waste materials arising from compliance with steps one and two above from the land.
 - The period for compliance with the requirements is 5 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Act. 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. 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 Act.

Appeal on ground (a)/deemed application

2. The dormer extension extends across the full width of the main rear roof slope with its rear elevation vertically in line with the rear elevation of the property.
3. The main issue is the effect of the rear dormer extension on the character and appearance of the host dwelling and the area, and upon the living conditions of occupiers of nearby residential properties.
4. The appellant contends that if the rendered external wall insulation was removed the dormer would be consistent with permitted development for roof alterations within Schedule 2, Part 1, Class B of the GPDO¹.
5. However, no detailed plans have been submitted to demonstrate that would be the case, and my own observations of the dormer indicate to me that such modifications would fall considerably short of resulting in a dormer comparable with Class B permitted development. Moreover, undisputed by the appellant, the Council points out that the property comprises two flats, such that no

¹ Town and Country Planning (General Permitted Development) (England) Order 2015

Class B permitted development rights are available. Furthermore, permitted development cannot be acquired retrospectively. Such a proposal would need to be subject of a planning application to the Council in the first instance.

6. I consider that the size and massing of the dormer results in a prominent bulky addition that is noticeably out of scale with the proportions of the host property. As such, it results in significant harm to the character and appearance of the host property and to the wider primarily residential area. While I note there are other dormers at nearby properties, they are not of such a size and massing as to result in the harm I have identified here. In addition, the rear windows in the dormer allow overlooking of rear gardens of nearby residential properties resulting in some loss of privacy, harmful to the living conditions of those occupiers.
7. While a degree of mitigation could be achieved by imposing planning conditions in respect of finishing materials and some obscure glazing, this would not overcome the harm I have described to the character and appearance of the host property and the wider area resulting from the excessive size and massing of the dormer. As such, the development conflicts with the requirements of Policies LLP1, LLP19 and LLP25 of the Luton Local Plan (2017).
8. The appeal on ground (a) therefore fails.

The appeal on ground (f)

9. An appeal on ground (f) is a claim that the requirements of the notice exceed what is necessary to remedy the breach of planning control, or, as the case may be, to remedy any harm to amenity resulting from the breach. In this particular case the notice requires the complete removal of the dormer extension and hence it is clear that the purpose of the notice is to fully *remedy the breach of planning control*.
10. The appellant's case on this ground repeats the suggestion that the dormer could be modified so as to be comparable with permitted development. However, it would not be so for the reasons I have set out earlier.
11. The purpose of the notice is to remedy the breach of planning control. Consequently, the requirement to remove the dormer completely cannot be excessive because it goes no further than remedying the breach. Any lesser requirements, such as those suggested by the appellant, would not fully remedy the breach.
12. The appeal on ground (f) therefore fails.

Thomas Shields

INSPECTOR