
Appeal Decision

Site visit made on 15 June 2021

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2021

Appeal Ref: APP/Q0505/C/20/3259688

Land at 29 Fernlea Close, Cambridge, Cambridgeshire CB1 9LW

- 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 Helal Shan against an enforcement notice issued by Cambridge City Council.
- The enforcement notice was issued on 21 August 2020.
- The breach of planning control as alleged in the notice is: *Without planning permission, the unauthorised erection of a single storey front extension (outlined in yellow on attached plans for identification purposes only), a part single storey, part two-storey rear extension (outlined in green on attached plans for identification purposes only) and a first floor side extension (outlined in blue on attached plans for identification purposes only) at the Land.*
- The requirements of the notice are:
 - i. Permanently remove the single storey front extension (outlined in yellow on attached plans for identification purposes only) at the premises.
 - ii. Permanently remove the part single storey, part two-storey rear extension (outlined in green on attached plans for identification purposes only) at the premises.
 - iii. Permanently remove the first floor side extension (outlined in blue on attached plans for identification purposes only) at the premises.
 - iv. Make good the resulting structure and remove all resulting materials from the premises.
- The period for compliance with the requirements is twelve (12) 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 under ground (a) an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Procedural Matters

1. In the reasons for issuing the notice, Reason (ii) states that the development is contrary to Policy 58 of the Cambridge Local Plan (2006). However, from the submitted evidence Policy 58 is taken from the new Cambridge Local Plan adopted in 2018 and replaces policies 3/4 and 3/14 from the Cambridge Local Plan (2006) cited in the Council's refusal notice dated 7 February 2018. Therefore it appears that '2006' is a typographical error and should read '2018'. I will proceed on this basis.
2. The change of use to an 8-person House in Multiple Occupation (HMO), referred to in the description of the refused retrospective planning application, does not

form part of the allegation in the enforcement notice. Therefore it does not form part of this appeal or my decision.

Background

3. From the planning history a number of planning applications have been granted at the appeal property which include a single storey front extension, a part single storey and part two-storey rear extension and a two-storey side extension. Whilst the Council has agreed in principle to these various components, it would appear that the various approved extensions have been built and combined together, with additional elements added. As such it is the resulting built form from the retrospective planning application that was refused¹ that is the basis of the appeal.

The Appeal on Ground (a) and the Deemed Planning Application

4. The appellant has made an appeal on ground (a) – that planning permission ought to be granted for the matters alleged in the notice.
5. The deemed planning application arising under the ground (a) appeal is for the “erection of a single storey front extension, a part single storey, part two-storey rear extension and a first floor side extension” as enforced against in the allegation.

Main Issue

6. From the Council’s planning refusal notice and reasons for issuing the enforcement notice, I consider the main issue in this case is the effect of the alleged appeal development on the living conditions of existing occupiers of neighbouring property 27 Fernlea Close (No.27) with particular regard to outlook.

Reasons

7. The appeal site comprises a two-storey hipped-roof semi-detached dwelling located towards the end of Fernlea Close, a cul-de-sac, in a predominantly residential area with properties of a similar size and design. It has a large rear garden. The adjacent property closest to the appeal extensions is a detached hipped-roof property comprising two dwellings, Nos.25 and 27. I could see that a number of nearby properties have also had extensions, including to their roofs.
8. No.27 and the appeal property are separated by the pedestrian path that runs along the side of No.27 and by its brick shed that sits on the shared boundary. There is a tall gate to secure the passageway to No.27. A substantial length of this passageway is partially covered by a lean-to with sloping semi-transparent polycarbonate roof that appears to join onto the brick shed. On this side elevation of No.27 there is a door and window at ground floor, and two smaller windows at first floor that face the side of the appeal property and its extensions.
9. At the front of the appeal property a single storey mono-pitched extension has been erected across the entire width of the property (identified yellow on the notice). It also extends beyond the side of the house up to the shared

¹ LPA ref: 17/1453/FUL refused 7 February 2018

- boundary with No.27 and wraps around part of the first floor side extension at ground floor level.
10. The part single storey/part two-storey rear extension (identified green on the notice) joins onto part of the first floor side extension (identified blue on the notice). The eaves are higher than those of No.27. However, the two-storey and first floor elements closest to No.27 have a hipped roof which serves to reduce the height and bulk of the extensions. Furthermore, the upper parts of the extension are set some distance away from the shared boundary, with the single storey side extension in between. The existing roof of the covered passageway to No.27 and the presence of the brick shed already create a sense of enclosure and reduce the outlook for occupiers of No.27. I find the combination of the design features of the extensions coupled with the existing structures of the neighbouring property, do not worsen the outlook for occupiers of No.27 to a significantly detrimental degree.
 11. According to the Council, the rear extension is approximately 0.8 metres longer than the extension previously approved. I could see that the rear of the extension protruded beyond the rear elevation of No.27. Occupiers of these rear rooms would have oblique views of part of the extension. However, the extension is a good distance away from the shared boundary and even further away from No.27 itself so as not to have a detrimental effect on their outlook.
 12. The single storey rear extension (part of the extension identified green on the notice) sits adjacent to the shared boundary with the adjoining semi-detached property No.31. It is obscured from view from No.27 by the intervening two-storey rear extension. I find it has no effect on the outlook of occupiers No.27.
 13. I am satisfied that the alleged extensions are not unacceptably dominant, overbearing or unneighbourly as to result in an oppressive living environment for the occupiers of No.27 with regard to their outlook.
 14. I therefore find the alleged extensions are not harmful to the living conditions of occupiers of No.27. Accordingly the development is in general conformity with Policy 58 of the Cambridge Local Plan (2018), which seeks to ensure that alterations and extensions to buildings do not unacceptably overlook, overshadow or visually dominate neighbouring properties.

Conclusion

15. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted.

Formal Decision

16. 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 erection of a single storey front extension, a part single storey, part two-storey rear extension and a first floor side extension on land at 29 Fernlea Close, Cambridge CB1 9LW referred to in the notice.

K. Stephens
INSPECTOR