



Appeal Decision

Site visit made on 1 September 2021

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th September 2021

Appeal Ref: APP/N0410/C/21/3273182

Land at 71 Thorney Mill Road, Iver, Buckinghamshire SL0 9AH

- 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 Oladeji Kuku against an enforcement notice issued by Buckinghamshire Council.
- The enforcement notice was issued on 22 March 2021.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey extension and front porch.
- The requirements of the notice are: 5.1 Demolish or dismantle the rear extension. 5.2. Demolish or dismantle the porch. 5.3 Remove from the land all debris and materials resulting from compliance with steps 5.1 and 5.2 of the notice.
- The period for compliance with the requirements is four months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (b) and (c) of the Town and Country Planning Act 1990 as amended.

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

Preliminary Matter

1. The revised National Planning Policy Framework (the Framework) came into force during the course of the appeal. The main parties have been given an opportunity to comment on the implications for the appeal of the revised Framework and I have taken it into account in my decision.

Ground (b) appeal

2. The ground of appeal is that the matters alleged in the enforcement notice have not in fact occurred. The appeal site contains a mid-terrace dwelling. A single storey extension has been erected at the rear of the dwelling and a porch erected on the front elevation. The matters alleged have therefore occurred. The ground (b) appeal fails.

Ground (c) appeal

3. The ground of appeal is that the matters alleged in the notice do not constitute a breach of planning control.
4. Erecting the rear extension and porch has involved building operations falling within the definition of development at s55(1) of the Act. Planning permission is required for the development of land, having regard to s 57(1) of that Act.

5. At Article 3, Schedule 2, Part 1 Class A, the GDPO¹ grants planning permission for the enlargement, improvement or other alteration of a dwelling. However, that is subject to the relevant size and locational limitations as well as the relevant conditions being met. According to the Council's measurements, the rear extension protrudes beyond the rear wall of the dwelling by around 4 m; the appellant did not dispute this figure and based on my own observation, there was no reason to think it was not accurate. As the rear extension protrudes more than 3 m beyond the rear wall of the original dwelling, it exceeds the limitation set out in Class A at paragraph A.1 (f).
6. Additionally, the condition at Class A, paragraph A.3 (a) requires an extension to have external materials of a similar appearance to those of the existing dwelling. The Government's Technical Guidance² explains that the materials should be of similar visual appearance to those of the existing dwelling but they do not need to be the same materials, and; that the intention of the condition is to ensure that works to enlarge, alter or improve a dwelling result in an appearance that minimises visual impact and is sympathetic to existing development.
7. The dwelling is constructed of buff coloured stock bricks, with a roof covering of small plain brindled tiles. However, the rear extension is constructed in bricks of a more orange colour, with white UPVC cladding above the eaves level, whilst the roof is covered with brown interlocking tiles. The brighter colour of the brickwork and bright, shiny finish of the UPVC contrasts markedly with the darker shade and more recessive tones found in the dwelling's brick walls. Also, the uniformly darker colour, larger size and raised profile of the tiles means that they are noticeably unlike the dwelling's roof tiles. As a result, the external materials do not have a similar visual appearance to those of the existing dwelling, they are obviously different, failing to minimise the visual impact of the rear extension. It follows that the condition at paragraph A.3 (a) is also not met.
8. At Part 1, Class D, the GPDO grants permission for erecting a porch on a dwelling, subject to size and locational limitations being met. The Council measured the porch as having a ground area of 3.4 m². In this instance also, there was no reason to think that the Council's measurements were inaccurate. As a result, the porch exceeds the 3 m² limitation set out in Class D at paragraph D.1 (b).
9. Due to the above factors, neither the rear extension nor the porch benefit from the planning permission granted by the GPDO at Article 3, Schedule 2, Part 1. Where development exceeds a limitation or condition of the GPDO, express planning permission is required. However, to my knowledge there has been no grant of permission by the Council for either the rear extension or the porch.
10. Therefore, the appellant has been unable to show that the rear extension and porch do not constitute a breach of planning control; the available evidence has led me to conclude otherwise. The ground (c) appeal also fails.

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

² Permitted development rights for householders Technical Guidance: MHCLG 2019.

Ground (a) appeal

Main Issue

11. The main issue in this appeal is the effect of the rear extension and porch on the character and appearance of the dwelling and the surrounding area.

Reasons

12. The dwelling is part of a short terrace of residential properties attached to a public house. I am given to understand that the buildings originated in the early 19th Century. The dwelling is of modest proportions, with a well-ordered elevational arrangement in a traditional architectural style. These characteristics are reiterated in the rest of the terrace and together with the similarity of the external materials and a general lack of unsympathetic later alterations or additions, they create a pleasing sense of unity of built form which contributes significantly to the character and appearance of the area.
13. Due to its depth, the rear extension protrudes a significant distance from the rear wall of the dwelling. It also occupies almost the entire width of the site. As a result, the scale of the rear extension neither respects nor reflects the more modest proportions of the dwelling or the rest of the terrace and it appears as a relatively large addition which fails to integrate visually with its built context. The obvious visual differences between the external wall and roof materials and those of the dwelling reinforces the obtrusive appearance of the rear extension in relation to the dwelling and the rest of the terrace.
14. The rear extensions to adjoining dwellings are considerably smaller and also appear more lightweight, due to their extensive use of glazing. Therefore, those extensions are of more modest scale and have a significantly different visual impact to the rear extension in this appeal. As the rear elevations of adjoining properties are unpainted, painting the rear extension walls would further erode the traditional character and appearance of the dwelling and that of the whole terrace. Similar considerations would apply if the rear elevation of the dwelling was also painted a similar colour to the rear extension walls. Moreover, painting would not address the scale of the rear extension or the other differences in the external materials.
15. As regards the porch, its scale also does not respect or reflect the modest proportions of the dwelling. On account of its depth the porch protrudes well forward of the front elevation of the dwelling, as well as the rest of the terrace, which lacks any other porches. The external materials, including UPVC cladding on the front gable, are noticeably dissimilar to those on the walls and roof of the dwelling. This has all meant that the porch visually disrupts the well-ordered front elevation of the dwelling and upsets the sense of unity in the terrace, appearing as an obvious and alien feature in the street scene. Whilst there are some porches in the wider area, they are generally on dwellings which differ considerably from the terrace in terms of their age and architectural style. As a result, the visual impact of other porches is not comparable with the porch in this appeal.
16. Consequently, the rear extension and porch have unacceptably harmed the character and appearance of the dwelling and its surroundings. As the scale and design of the rear extension and porch are incompatible with the character and amenities of the site, adjoining development and the locality and use

external materials that do not match the existing building, they do not accord with Policy EP3 of the South Bucks District Local Plan (LP). Also, the rear extension and porch fail to accord with criteria in LP Policy H11³, as harmony with the existing building in terms of scale, form and design is not achieved and there is adverse impact on the character and amenities of the locality. For similar reasons, there is failure to accord with criterion in LP Policy GB10; this policy was not referenced in the notice but subsequently highlighted by the Council. Finally, the rear extension and porch are not consistent with paragraph 130 of the revised Framework, on account of not being visually attractive as a result of good architecture and not sympathetic to local character and history, including the surrounding built environment.

Other matters

17. I am given to understand that prior to its purchase by the appellant, the dwelling had been in a poor condition and was vacant. However, it is unlikely that refurbishing the dwelling and making it habitable solely relied on erecting the rear extension and porch. Upholding the notice is likely to be disruptive and could result in adverse financial consequences, as well as increased anxiety levels for the appellant, at a time when the UK is recovering from the effects of the COVID-19 pandemic. I also note that part of the appellant's reasons for erecting the rear extension was to enable working from home. Furthermore, I am mindful of what could potentially be undertaken in terms of development which met the relevant limitations and conditions of GPDO at Article 3, Schedule 2, Part 1, Classes A and D. However, I afford all of these matters limited weight, as they do not represent sound reasons for granting planning permission in the light of the harm identified above.

Conclusion

18. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

19. 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 as amended.

Stephen Hawkins

INSPECTOR

³ The Council confirmed that the reference in the notice to LP Policy H13 was in error.