



Appeal Decisions

Site visit made on 4 February 2022

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an Inspector appointed by the Secretary of State

Decision date: 16 February 2022

Appeal A Ref: APP/D5120/C/21/3270635

5 Lansdowne Avenue, Bexleyheath, Kent DA7 5SN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Dariusz Piotr Nowacki against an enforcement notice issued by London Borough of Bexley.
 - The notice was issued on 3 February 2021.
 - The breach of planning control as alleged in the notice is alterations to the roof of the dwelling house by the erection of a part hipped part gable end, alterations to extend a rear dormer extension and the increase in the height of the original roof - this is a material departure from approved drawing numbers 09A and 10A of planning permission 19/02423/FUL.
 - The requirements of the notice are 1) Remove the roof and dormer extension and reinstate the roof and dormer extension in accordance with drawing number 09A and 10A of planning permission 19/02423/FUL on the land outlined in red on the attached plan, and 2) Remove all resultant demolition works from the land.
 - The period for compliance with the requirements is 6 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.
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Appeal B Ref: APP/D5120/W/21/3269026

5 Lansdowne Avenue, Bexleyheath, Kent DA7 5SN

- 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 D Nowacki and Mrs E Nowacka against the decision of London Borough of Bexley.
 - The application Ref 20/02462/FUL, dated 30 September 2020, was refused by notice dated 25 November 2020.
 - The development proposed is double storey side, part single storey rear and alterations to roofline incorporating a rear dormer and one rooflight in the front roofslope and two in the side roofslope to provide rooms in the roofspace (Revision of 19/02423/FUL).
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Appeal C Ref: APP/D5120/W/21/3273817

5 Lansdowne Avenue, Bexleyheath, Kent DA7 5SN

- 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 D Nowacki and Mrs E Nowacka against the decision of London Borough of Bexley.
 - The application Ref 21/00388/FUL, dated 6 February 2021, was refused by notice dated 1 April 2021.
 - The development proposed is two storey side extension and alterations to roofline incorporating a rear dormer and one rooflight in the front roofslope and two in the side roofslope to provide rooms in the roofspace (Revision to 20/02462/FUL).
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Decision

Appeal A Ref: APP/D5120/C/21/3270635

1. The enforcement notice is varied by the deletion of '6 months' in section 5 and the substitution instead of '12 months'. Subject to the variation the appeal is dismissed and the enforcement notice is upheld.

Appeal B Ref: APP/D5120/W/21/3269026

2. The appeal is dismissed.

Appeal C Ref: APP/D5120/W/21/3273817

3. The appeal is dismissed.

Reasons

4. 5 Landsdowne Avenue was, originally, a two storey semi-detached dwelling with a wholly hipped roof and a single garage attached to its side elevation. In 2020 planning permission 19/02423/FUL (the 2020PP) was granted for 'double storey side extension, part single storey rear extension and loft extension'. Condition 2 of the 2019PP requires the development to be carried out in accordance with approved plans, which include drawing nos. 09A and 10A.

5. Development has been carried out but not in accordance with the approved plans. The application that is the subject of Appeal B sought authorisation for the scheme as built, which is also the scheme that is the subject of the ground (a) appeal in Appeal A. The scheme that is the subject of Appeal C differs only slightly from the Appeal B scheme.

6. In all three cases, the ground (a) enforcement appeal and the two planning appeals, the main issue is the effect of the development on the character and appearance of the dwelling and the surrounding area.

7. If development had been carried out in accordance with plans approved under the 2020PP the dwelling would have retained a wholly hipped roof and the rear dormer would be over the original dwelling and on the original roofslope. The dormer that has been constructed extends over the two storey side extension to the original dwelling. Consequently, at the rear the only remaining roof slope is below the chimney over the party wall and a cosmetic small section of eaves that serves no practical function. The dwelling now has the appearance of a three storey flat roofed building and its original character and appearance has been wholly altered and has been significantly harmed.

8. Virtually all similar properties in the surrounding area have been extended and altered to various degrees. However, in all other cases the original form of the dwelling is discernible and each dwelling has largely retained its original character. The same cannot be said of the appeal dwelling. It is not now possible, particularly at the rear, to discern the original form of the dwelling. The dwelling is an alien feature of the area and the development that has been carried out has had a significant adverse effect on the character and appearance of the surrounding area. The only difference between the Appeal B scheme and the Appeal C scheme is that in the latter scheme the pitch of the hip part of the roof would be altered. This would have no effect on the acceptability of the works that have been carried out.

9. The Appellant has submitted a personal statement in which he explains the background to how the development came to be as it is. It does not, however, explain why the development differs to such a significant degree from the 2020PP. Nothing in the personal statement or in the Appellant's Agent's submissions alter the overall conclusion to be reached.

Conclusion

10. The development that has been carried out at the appeal property, even if it were to be altered as proposed in the Appeal C scheme, has had a significant adverse effect on the character and appearance of the dwelling and the surrounding area. The development conflicts with saved policies ENV39 and H9 of the London Borough of Bexley Unitary Development Plan and policy CS07 of the London Borough of Bexley Core Strategy. The planning appeals and the ground (a) enforcement appeal thus fail.

The ground (g) enforcement appeal

11. The works required to alter the dwelling so that it complies with the 2020PP are considerable and complex. Six months is insufficient time for a contractor to be appointed and for the works to be completed. Twelve months as requested by the Appellant will provide him with time to raise the necessary capital and for the works to be completed successfully. The ground (g) appeal thus succeeds and the compliance period has been varied accordingly.

John Braithwaite

Inspector

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/D5120/C/21/3270635	Mr Dariusz Piotr Nowacki
Appeal B	APP/D5120/W/21/3269026	Mr and Mrs D and E Nowacki and Nowacka
Appeal C	APP/D5120/W/21/3273817	Mr and Mrs Nowacki and Nowacka