



Appeal Decision

Site visit made on 9 March 2022

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 28 March 2022

Appeal Ref: APP/U4230/C/21/3289618

2 Winton Road, Salford M6 7HR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Sohrab Azimi against an enforcement notice issued by Salford City Council.
- The enforcement notice was issued on 8 December 2021.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey side and rear extension, two outbuildings in the front garden, siting of a portacabin in the front garden with associated wooden extension and increase in height of boundary treatment to the north, east and south boundaries.
- The requirements of the notice are:
 1. Permanently remove from the site the single storey front and side wraparound extension (indicated on Plan 2);
 2. Permanently remove from the site the single storey outbuilding located adjacent to the boundary with No.26 Summerville Road (indicated on Plan 2);
 3. Permanently remove from the site the single storey outbuilding located along the front and side boundaries (indicated on Plan 2);
 4. Permanently reduce the height of the boundary treatment as indicated on PLAN 3 by a red line, including the posts to a maximum height not exceeding 1.3m;
 5. Permanently remove from the site the additional fencing panels erected along the boundary with 26 Summerville Road, identified in Photograph 4 by a red outline;
 6. Permanently remove from the site the portacabin located along the side boundary with Winton Road (indicated on Plan 2);
 7. Permanently remove from the site the wooden extension attached to the portacabin located along the side boundary with Winton Road (indicated on Plan 2);
 8. Remove from the site all materials arising from compliance with no (1-7) above.
- The period for compliance with the requirements is 90 days.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (d) and (f) of the 1990 Act as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction in the terms set out below in the Formal Decision.

Preliminary Matter

1. The allegation describes the erection of a single-storey side and rear extension, whereas the corresponding requirement refers to a front and side wraparound extension. There is no ambiguity in the notice as the attached Plan 2 clearly shows the extension in question. Nonetheless, the requirements flow from the allegation and it is necessary to correct the allegation for consistency. I am satisfied I can make the correction without injustice since this relates to a relatively minor matter and the substance and effect of the notice is unchanged.

The ground (d) appeal

2. In this ground of appeal, the onus of proof is firmly upon the appellant with the relevant test of the evidence being on the balance of probabilities. In order to succeed on ground (d), the appellant must show that the matters alleged were substantially completed four or more years prior to the issue of the notice, such that it is too late for the Council to take enforcement action.
3. The appellant says that he bought the house in September 2019, and most of the matters enforced against were there at that date. There is no supporting information, such as the sales particulars or dated photographs, showing the development. In contrast, the Council relies upon 'Google Pro' images. An image dated March 2017 shows the property with none of the extensions or outbuildings enforced against. Subsequent images dated April 2018 and May 2019 show extensions to the house, an outbuilding in the front garden and it appears that a portacabin has been sited. In April 2020 and 2021, the images show alterations to the extensions and outbuildings. The appellant has not sought to explain the images or challenge the Council's evidence.
4. Consequently, I find the appellant's evidence to be incomplete and ambiguous. It does not show that the matters alleged were substantially completed four or more years prior to the issue of the notice. Therefore, it is not too late for the Council to take enforcement action and the appeal on ground (d) must fail.

The ground (a) appeal and the deemed planning application

Background and Main Issue

5. The terms of the deemed planning application are derived from the corrected allegation. Hence, planning permission is sought for the erection of a single-storey front and side wraparound extension, two outbuildings in the front garden, siting a portacabin in the front garden with an associated wooden extension and an increase in height of the boundary treatment to the north, east and south boundaries. The main issues are the effect of the development on (i) the character and appearance of the host building and the wider area; and (ii) the living conditions of the occupiers of No 26 Summerville Road with regard to light and outlook.

Character and Appearance

6. The appeal property forms one of a pair of semi-detached houses situated on an elevated corner plot in a residential area. The extensions and outbuildings are considerable and cover the majority of the front and side garden. The front and side extension is constructed from a mismatch of materials including timber, plastic sheeting and plasterboard. The roof wraps around the whole structure, enclosing additional areas of the garden. The extension is sizeable and it does not reflect the host property in terms of design, scale and materials. It is an incongruous addition that is harmful to the character and appearance of the host property, while also unbalancing the appearance of the semi-detached pair.
7. The timber outbuilding adjacent to the boundary with No 26 Summerville Road is sited between the front extension and a larger, irregularly shaped outbuilding located along the front and side boundaries. The latter is a dominant structure that is visible in the street scene due to its size and the elevated land levels within the site. The two outbuildings cover a large part of the front garden and

are thus out-of-scale with the host property. The largest of the two outbuildings is poorly constructed from timber, plastic tiles and sheeting. Their combined effect is unacceptable due to their scale and design, and the materials and prominent siting of the larger building.

8. The portacabin forms another large and dominant structure that is visible in the street scene and wholly out of character with the modest semi-detached house. It has been further extended with a pergola-type addition, which covers more of the garden area. The form and scale of the portacabin, and its extension, is such that it is harmful to the character and appearance of the host property and the wider area.
9. The site has been fortified with a random selection of fencing of varying height and materials, which is higher than the boundary treatment in the vicinity. The fencing screens some of the development within the site, but itself is a prominent and uncharacteristic feature. It serves to create a compound, which is at odds with the surrounding development. The Council acknowledges that there remains a section of pre-existing fencing along the boundary with Winton Road, approximately 4 panels in length, which it considers would be an acceptable form of boundary treatment. The relevant requirement is to reduce the height of the fencing adjoining Winton Road and Summerville Road to its former height, 1.3 metres. I agree that this would address the harm caused by the unauthorised fencing.
10. To conclude on this matter, I find that the unauthorised development, cumulatively and individually, has an adverse effect of the character and appearance of the host property and the wider area. It is thus contrary to the development plan, in particular, Policies DES1 and DES8 of the Unitary Development Plan (UDP)¹, which seek to secure development of a high quality design that respects the character of the local area and the original structure.

Living Conditions

11. The front extension and the two outbuildings extend along the boundary with the adjoining house, No 26 Summerville Road. In addition, the dividing timber fence has been increased in height along the shared boundary. The size and scale of the structures are such that the unauthorised development would have a cumulative adverse effect on the outlook from the neighbouring property. In addition, the development is sited to the south and it is likely that there would be a material reduction in light to the ground floor of the adjoining property and its front garden.
12. The appellant says there have been no complaints but this does not overcome the considerable harm to the living conditions of the neighbouring occupiers, which results from the unauthorised development.
13. I find that the unauthorised development has an adverse effect on the living conditions of the occupiers of No 26 Summerville Road, with regard to light and outlook, and is thus contrary to Policy DES7 of the UDP that seeks to protect residential amenity.

¹ City of Salford Unitary Development Plan 2004-2016 (2006).

Conclusion

14. I find that the unauthorised development has an adverse effect on the character and appearance of the host building and the wider area, and on the living conditions of the occupiers of No 26 Summerville Road with regard to light and outlook. The appeal on ground (a) fails, therefore.

The ground (f) appeal

15. The ground (f) appeal is that the steps required by the notice to be taken, or the activities required to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. While the connection is not explicit, the wording of Section 174(2)(f) of the 1990 Act links back to Section 173 which provides that an enforcement notice shall specify the steps to be taken, or activities to cease, in order to achieve, wholly or partly, remedying the breach or remedying any injury to amenity. In this case, the notice requires the removal the extensions and outbuildings, and the boundary treatment to be returned to its former height. Hence, its purpose is to remedy the breach of planning control. I must consider whether the requirements exceed what is necessary to achieve that purpose.
16. The appellant says that the boundary treatment has been altered to return it to its previous height. I saw that some of the panels had been reduced in height but the fence was still higher than it was previously and remains a breach of planning control. I understand that some items of furniture had been removed from the garden, but this is not relevant as furniture would not comprise development.
17. The unauthorised development has been constructed or erected without planning permission. This constitutes a breach of planning control. In order to remedy the breach, the unauthorised development comprising the extensions, outbuildings and portacabin must be removed. The fencing must be altered so that it would be returned to its former height. This is what the requirements set out, which are not excessive.
18. I conclude on this matter that the steps required by the notice are not excessive to achieve its statutory purpose and the appeal on ground (f) must fail.

Conclusion

19. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decision

20. It is directed that the enforcement notice is corrected by the replacement of the words "the erection of a single storey side and rear extension" in paragraph 3 of the notice with "the erection of a single storey front and side wraparound extension".

21. Subject to the correction, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Debbie Moore

Inspector