



Appeal Decisions

Site visit made on 15 June 2022

by S A Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2022

Appeal A Ref: APP/P0119/C/22/3294727

Appeal B Ref: APP/P0119/C/22/3294756

Land at 106 Long Road, Mangotsfield, South Gloucestershire, BS16 9HP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. Appeal A is made by Mr Byron Kilpatrick and Appeal B is made by Mrs Byron Kilpatrick against an enforcement notice issued by South Gloucestershire Council.
 - The notice was issued on 11 February 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a garage approximate position marked in a red cross on the enclosed plan.
 - The requirements of the notice are to: Modify the garage to the approved plan within planning permission P20/16790/F. The garage should be rebuilt to the plans marked "PROPOSED GARAGE PLANS (Rev F) (Amended) (Received by the Council on 21 October 202)". The approved plan is attached to this Notice.
 - The period for compliance with the requirements is: Two months.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. 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.
 - Appeal B is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that:

the requirements of the notice are corrected by:

deleting "21 October 202" and substituting "21 October 2020"; and

adding "or demolish the garage and remove from the Land any waste materials resulting from the works"; and

deleting the period for compliance with the requirements and substituting it with "6 (six) months".

2. Subject to these corrections, the appeals are 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 1990 Act as amended.

Matters concerning the notice

3. The purpose of the notice is to remedy the breach of planning and to do so, the requirements seek to modify the garage so that it complies with planning permission P20/16790/F. However, in accordance with s173(4)(a) of the 1990

Act, the notice should also allow the appellants the opportunity to restore the land to its condition before the breach took place. Wide powers to correct a notice are available to me under s176(1) of the 1990 Act and I am satisfied that the correction will not cause injustice to the appellants or the council.

4. The plan referred to in the notice is described as "received by the council on 21 October 202". This is clearly a typographical error, and it is evident from the submissions that the application was submitted and approved in 2020. I consider that there would be no injustice to either party if I correct the notice to that extent.

Procedural Matter

5. Appeals were made by both Mr and Mrs Byron Fitzpatrick against the enforcement notice on ground (a). Since the prescribed fees were paid by Mr Byron Fitzpatrick only, the appeal by Mrs Fitzpatrick on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act, as amended, has lapsed. Consequently, no further action will be taken on Mrs Fitzpatrick's appeal on ground (a).

Ground (a) appeal and the deemed planning application (DPA) – Appeal A

Main Issue

6. This is the effect of the development on the character and appearance of the surrounding area.

Reasons

7. The appeal development is a large garage and workshop building (the garage) which has been constructed in the rear garden of a two-storey semi-detached dwelling in an urban residential area. Vehicular access to the garage is via a track that runs along the back of the property. The 'no through' track also provides access to neighbouring properties where there are areas for parking and an assortment of garages which are mostly low level basic structures. To the other side of the track are rear gardens of properties on Mangotsfield Road. The boundary to these is defined in the main by a solid fence line.
8. Characterised by its unified suburban context, the area consists of rows of brick and rendered properties of a similar form and height, with gables ends and dual pitch roofs these dwellinghouses line both sides of Long Road. The fronts of the properties are generally open with low level boundary walls. Views into the rear gardens are limited due to the design and layout of the estate road. However, the appeal site is situated on a bend in the road, and this provides a greater distance between the property and its neighbour. Accordingly, this enlarged opening allows for views towards the garage at the rear of the garden.
9. The garage is rectangular in form with a large floor area and has been constructed with a double mansard style roof using grey ridged tiles. From the street, the garage catches the eye due to its contrasting design and its height, in an elevated position. The steeply pitched sides to the lower parts of the roof add considerable mass to the building and the extent of blockwork sections culminating in a flat roof appear contrived. Although I appreciate this would likely be rendered and painted or even covered with vertical boarding on the upper section, the style is uncomfortable, and the scale is not proportionate. If

the side extension is built, which was granted planning permission along with the garage, these views would be reduced. However, views would remain from public and private realms to the rear.

10. The garage is a substantial structure which is overly dominating and intrusive, being significantly larger in scale when compared with others along the track. With the addition of the mansard roof, the garage has the appearance of a two-storey building and although there is similarity in its style with the dormer windows to the rear, the scale is not comparable. Given its large footprint, substantial height and the introduction a dual mansard roof, the development exceeds the appropriate scale and proportions of a subservient outbuilding to its host. As such, the development is considered to have a negative effect on the character and appearance of the surrounding area.
11. Planning permission was previously granted for a garage/workshop building with a rectangular form and a footprint measuring 11.00m x 6.10m. With eaves at 2.5m and roof ridge at 4.5m the dual pitched roof was relatively shallow. The plans show gable ends to the north, south and west elevations and the east elevation displays a hipped roof. The garage was shown to be positioned on the boundary with No.104 Long Road and set parallel to the house. What has been constructed is a building with a slightly reduced floor plan and a slight adjustment in its positioning. The dual pitched roof has been replaced by a dual mansard roof and the height raised to a level between 4.8m¹ and 5.0m². The angle of the pitch and steepness of the roof slope have been substantially increased and roof pitches replaced by flat roofs. The difference between that which is permitted and that which has been built is significant. Whilst the slightly reduced footprint and the adjusted position are considered to have a neutral effect, the variations to the height and design, which have added considerable bulk to the structure, are considered harmful to the character and appearance of the area.
12. As part of the appeal on ground (a), the appellant has submitted an alternative scheme for me to consider. This is the proposal which formed application ref. 21/03857 which was refused by notice dated 28 July 2021. The appellant has provided plans for the scheme and a comparison with the permission for the garage granted pursuant to application P20/16790/F on 30 October 2020. The alternative scheme is considered to come within the terms of the alleged breach and hence the DPA, as such I am able to consider it.
13. From reading the plans³, the alternative scheme proposes additional boundary treatments and adjustments to the roof, retaining the height but altering the slope of the west elevation thereby creating a pitch roof gable end to the north and south elevation in place of the flat roof half gable. The remaining section of the roof would remain in its present form but with the addition of vertical boarding on the east side elevation. Whilst this proposed alteration of a section of the roof to a dual pitch would undoubtedly reduce the visual impact of the building, and would be more complementary in the setting, the mansard roof would remain in part. This together with the increased height of the garage would result in a discordant design and would exceed that which was permitted pursuant to application P20/16790/F and considered acceptable. I note the introduction of the boundary treatment, but this would have a limited effect on

¹ Figure provided by the appellant

² Figure provided by the council

³ Drawing No. 50578-1 Rev C dated February 2021

screening the development. As the proposal goes only part of the way to address the harm I have identified, I consider that the scheme would not be an acceptable alternative.

14. Overall, I find that the height of the garage combined with the use of the mansard roof creates a development which is visually dominant and out of keeping with its surrounding environment. The development conflicts with Policies CS1 of the South Gloucestershire Local Plan: Core Strategy (Adopted December 2013) requires development to be of the highest possible standards of design where proposals respect and enhance the character and distinctiveness of the site and its context. There is also conflict with Policy PSP38 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (Adopted November 2017). This provides that development within existing residential curtilages will be acceptable where, amongst other things, they respect the building form, scale and architectural style of the street and surrounding area. In the supporting text, it is explained that regarding form and scale, 'buildings such as garages should also not be overly large that they dominate either the original house or street scene'.
15. As noted by the appellant, the Council's Householder Design Guide SPD (March 2021) contains no specific guidance on outbuildings, noting only at section 3.5 that, to ensure acceptable living conditions, consideration should be given to the impact of the provision and positioning of outbuildings (eg sheds) on residential amenity. In these circumstances I give limited weight to the supplementary planning document.

Conclusion on ground (a) and the DPA

16. There are no material considerations that indicate the deemed application should be determined other than in accordance with the Development Plan as a whole. For the reasons given above I therefore conclude that the appeal on ground (a) should not succeed, and I shall refuse to grant planning permission on the deemed application.

Ground (g) appeal – Appeals A and B

17. An appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable.
18. The appellant argues that two months is too short a timeframe to comply with the Notice and nine months is sought given the need to secure quotes for the work, appoint a builder and schedule the work. I note the council's comments and therefore consider that the compliance period should be extended to six months.
19. In this respect the appeal on ground (g) succeeds.

S A Hanson

INSPECTOR