



Appeal Decisions

Site visit made on 18 July 2022

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2022

Appeal A: APP/A1720/C/22/3294988

Appeal B: APP/A1720/C/22/3294989

Land at 15 Castle View Road, Fareham, Hampshire PO16 9LA

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Jarrod Singh (Appeal A) and Miss Ella Chandler (Appeal B) against an enforcement notice issued by Fareham Borough Council.
 - The enforcement notice was issued on 11 February 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection on the Land of a single-storey rear extension measuring four (4) metres deep from the rear of the original dwellinghouse.
 - The requirements of the notice are: (i) Reduce the extension so that it measures no more than three (3) metres in depth when measured from the rear of the original dwellinghouse; OR (ii) Remove the rear extension in its entirety from the Land; AND (iii) Remove all demolition materials arising from steps (i) or (ii) from the Land.
 - The period for compliance with the requirements is three months.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (d) and (f) of the Town and Country Planning Act 1990 as amended and Appeal B on grounds (d) and (f). 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.
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Summary of Decisions

1. Appeal A is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision. Appeal B is dismissed.

The ground (d) appeals

2. For the ground (d) appeal to succeed the onus is on the appellants to demonstrate, on the balance of probabilities, that at the time the enforcement notice was issued it was too late to take enforcement action against the matters stated in the notice. For this to be the case, the appellants will need to demonstrate that the extension was substantially complete 4-years prior to the issue of the notice on 11 February 2022.
3. The appellant pleads ground (d) largely on the basis there was already a structure on the back of the house and that the building contractor has completed the project. Whilst that is not entirely correct, as the extension is yet to be rendered, from the evidence before me it is clear the extension was constructed in 2021, given the appellants only purchased the property in the August of that year and the Council has provided a photograph of footings having been dug in the September.

4. Whilst there was previously a smaller extension on the rear of the property, for which some of the walling has been retained, as a matter of fact and degree it is clear from the extent of works undertaken that the original extension has not merely been further extended, but a new extension of 4m depth constructed. Irrespective of this, the works were substantially complete less than 4-years prior to this issue of the notice.
5. Accordingly, the extension has not been substantially complete for a 4-year period prior to the issue of the notice on 11 February 2022 and so on the balance of probabilities, at the time the notice was issued, it was not too late to take enforcement action.
6. The appeal on ground (d) therefore fails.

The ground (a) appeal

Main Issue

7. The main issue is the effect of the extension on the living conditions of neighbouring occupiers, having particular regard to light and outlook

Reasons

8. The site comprises a semi-detached property with similar houses in the immediate area. The extension enforced against is 4m in depth and between 2.85m and 2.9m in height with a flat roof. It is intended to be finished in render. It extends the width of the rear elevation, and forms part of the boundary with the adjoining property, No.11.
9. The starting point for assessment is that the Council has afforded the appellant options for compliance with the notice, namely, to either remove the rear extension in its entirety, or reduce the extension so that it measures no more than 3 metres in depth. I afford significant weight to the prospect of the extension only being reduced rather than removed in its entirety.
10. That being so, the requirement of the notice does not address the height of overall extension. Neither does it account for the significant prospect of the lower part of the extension being replaced with a boundary treatment the same or similar to that which runs along the remainder of the boundary, being a fence approximately 2m in height.
11. The practical effect of the notice would therefore be to only remove the built form above 2m in height that projects greater than 3m from the rear of the property. In other words, a reduction in height of 0.85m for 1m at the point furthest from the semi-detached properties.
12. I am therefore not persuaded that this nominal reduction in built form will have a perceptible effect in the living conditions of occupiers of No.11. This is because the occupiers of No.11 will have already experienced loss of light as a result of the fencing and previous extension or then what the Council has otherwise permitted to remain. Whilst I appreciate the extension is on the boundary with No.11 and is located to the south with no change in ground levels, the extension as-built nevertheless does not have an unacceptable adverse impact on daylight/sunlight or outlook, when considered against what otherwise would be the existing situation and noting the width of the garden at

- No.11. The extension therefore does not have an overbearing or dominant effect on the garden.
13. The rear habitable room, a dining room, has doors opening out onto a decking area. For the same reasons, I am not persuaded the extension will have a harmful effect on internal living conditions, having particular regard to light and outlook. Light to this room is therefore not significantly reduced, and the outlook from the room is down to the rear garden, as opposed up/across and towards the boundary. The extension is therefore not physically blocking light and/or outlook to an unacceptable degree that neighbouring occupiers previously enjoyed.
14. I appreciate that planning permission was not sought prior to the works being carried out and that the extension is larger than what previously existed. However, as each development must be considered on its individual planning merits, allowing the appeal is not to the detriment of other local residents.
15. I conclude the extension is not harmful to the living conditions of neighbouring occupiers, having particular regard to light and outlook. The extension therefore accords with Policy DSP3 of the adopted Fareham Local Plan Part 2: Development Sites and Policies, June 2015. This policy, amongst other things, requires development to ensure there will be no unacceptable adverse impact upon living conditions by way of the loss of sunlight, daylight and outlook. For the same reasons, the extension accords with the adopted Fareham Borough Design Guidance Supplementary Planning Document, December 2015.

Planning Conditions

16. The Council has not provided a list of suggested conditions in the event the appeal was allowed. In any event, as the extension is substantially complete, it is only necessary to ensure the external walls are rendered to achieve an acceptable appearance. It would be reasonable for this work to be completed within 3 months.

Overall Conclusion

17. For the reasons given above I conclude that Appeal A should succeed on ground (a) and planning permission will be granted. Given there is no success on ground (d), Appeal B should be dismissed and the appeals on ground (f) do not need to be considered.

Formal Decisions

Appeal A

18. 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 on the Land of a single-storey rear extension measuring four (4) metres deep from the rear of the original dwellinghouse on land at 15 Castle View Road, Fareham, Hampshire PO16 9LA referred to in the notice, subject to the following condition:
- 1.) The three external walls of the single-storey rear extension the subject of this permission shall be rendered in their entirety within 3 months of the date of this permission.

Appeal B

19. The appeal is dismissed.

Paul T Hocking

INSPECTOR