



Appeal Decision

Site visit made on 13 December 2022

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2023

Appeal Ref: APP/B3030/C/22/3297298

18 Valley Road, Bilsthorpe NG22 8QH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act). The appeal is made by Mr Mark Monington against an enforcement notice issued by Newark & Sherwood District Council.
 - The notice, numbered 22/00006/ENFB, was issued on 1 April 2022.
 - The breach of planning control as alleged in the notice is without planning permission, operational development consisting of the building of an extension forward of the principal elevation (partially completed), as shown within images 1 & 2, proposed to be of the finish details in the plans and statements accompanying refused retrospective planning application reference 22/00239/HOUSE.
 - The requirements of the notice are to:
 - A. Demolish the part-constructed extension (shown within images 1 & 2), including any foundations/base
 - B. Remove all associated materials from the property.
 - The periods for compliance with the requirements are:
 - A. 12 weeks after this notice takes effect.
 - B. 14 weeks after this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) 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.
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Decision

1. 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.

Preliminary Matters

2. The appellant suggests they felt encouraged by comments made by the Council regarding the extension. While no substantive details of such comments have been provided, it is a fundamental principle that a local planning authority may not fetter its discretion to issue an enforcement notice by any form of agreement. Pre-application discussions cannot therefore be taken as a guarantee that enforcement action will not subsequently be taken.
3. While the appellant carried out the works during the Covid-19 pandemic in the belief that it was permitted development, it is not disputed that the works carried out are not permitted by the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)(the GPDO).

Ground (a)

4. An appeal under ground (a) is made on the basis that, in respect of any breach of planning control which may be constituted by the matters stated in the

notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged.

Main Issue

5. The main issue of the ground (a) appeal is the effect of the appeal scheme on the character and appearance of the area.

Reasons

6. The appeal site is located along a part of Valley Road which is generally characterised by semi-detached dwellings of similar design with modest front gardens. I saw that some properties in the area have been modified with additions to their front elevation. However, additions are generally modest and so do not dominate the frontages of their host dwellings.
7. The appeal property is a semi-detached dwelling which faces Valley Road at an angle. The property is bound by a low level brick wall with a trellis above and mature vegetation. To the front of the dwelling, a partially constructed extension has been erected which extends across much of the width of the front of the dwelling. There is no roof to the extension and no windows or doors have been inserted.
8. Core Policy 9 of the Newark and Sherwood Amended Core Strategy (adopted March 2019)(ACS) seeks development of an appropriate form and scale to its context and policies DM5 and DM6 of the Allocations & Development Management Development Plan Document (adopted July 2013)(DPD) both seek to protect the character of an area.
9. While there is mature vegetation to the front of the dwelling which limits views of the extension from the public domain, the extension projects above the boundary fence with No 16 and, despite its setback from the highway, is clearly visible when travelling towards the property, from the east. Although the extension has been constructed using materials which are in keeping with the host dwelling, due to its substantial width and projection forward of the principal elevation, it appears an incongruous feature which diminishes the character and appearance of the area.
10. Furthermore, the appellant is under no obligation to retain the vegetation to the front of the dwelling, and I do not consider it would be reasonable to require its retention via condition. The trellis appears aged and broken in places and is likely to need replacing at some point in the future. At least some of the vegetation is likely to need to be removed if the trellis is replaced. This would open up views of the front of the dwelling so that the extension is even more visible from the public domain.
11. I acknowledge that No 20 Valley Road and No 10 North Drive both have extensions to the front of their respective dwellings which extend across much of their widths, however, I do not have full details of the erection of these extensions. This type of extension is not typical of the area and these examples do not therefore define the character of Valley Road.
12. Moreover, as highlighted by the appellant, No 20 Valley Road and No 10 North Drive were constructed over two decades ago. The Council has since introduced planning policy and guidance to seek to protect the character and appearance of the area, and in particular has published the Householder Development SPD

(2014)(SPD) which advises that where a proposed addition projects from the front elevation of a dwelling regard should be given to whether the proposal would introduce a dominant feature which would be harmful to the appearance of the host dwelling or the character of the surrounding area. The examples cited do not therefore weigh in support of the appeal scheme.

13. The appellant asserts that the extensions would provide additional space and that the front extension would be an efficient use of the land. However, an appeal under ground (a) only allows for a grant of planning permission for the whole or part of the matters stated in the enforcement notice. The allegation is for a partially completed extension and so another grant of planning permission would be required to complete the extension.
14. I consider it highly unlikely that the appellant would be able to use the extension as it has been constructed. The benefits suggested by the appellant would therefore not be realised were I to grant planning permission under ground (a). Moreover, despite the limited outside space to the rear, I am not persuaded that an extension to the front of the dwelling is the only way of meeting the appellant's needs. Even if it were, the benefits would not outweigh the harm to the character and appearance of the area.
15. The appellant suggests the depth of the build could be reduced, however, I have no substantive details as to what this would look like. The appellant also suggests removing roof windows and replicating the roof style of No 20 Valley Road. However, no roof or windows have been inserted. As set out above, I can only grant planning permission for the whole or part of the matters.
16. I note the Parish Council supported the proposed single storey front extension and no objections have been received from neighbours as the extension does not harm the living conditions of neighbouring occupants. However, these are neutral factors in my consideration of the appeal.
17. Thus, for the reasons given above, I find the appeal scheme harms the character and appearance of the area, contrary to Core Policy 9 of the ACS, policies DM5 and DM6 of the DPD and also fails to comply with the requirements of the SPD, the requirements of which are set out above, and the National Planning Policy Framework (2021)(the Framework) which seeks well designed places.

Ground (f)

18. An appeal under ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice 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.
19. Section 173(4) of the Act sets out the purposes of an enforcement notice are (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place. Given the requirements of the notice, which include the requirement to demolish the extension, it is clear that the purpose of the notice is to remedy the breach.

20. I note the appellant raises concerns that the Council has failed to engage in discussion regarding alternatives. However, in an appeal it is for the appellant to put forward any alternatives under ground (f). Though the appellant may be prepared to address the concerns raised by the Council regarding the size of the extension, I have no alternative scheme before me.
21. Nevertheless, the enforcement regime is intended to be remedial, not punitive and so I shall consider whether there is any obvious alternative or lesser step which would achieve the purposes of the enforcement notice with less cost and disruption.
22. Class A, Part 1 of Schedule 2 of the GPDO grants the enlargement, improvement or other alteration of a dwellinghouse subject to conditions and limitations. In particular, development is not permitted where it would extend beyond a wall which forms the principal elevation of the original dwellinghouse. Since the extension is forward of the principal elevation, I can see no obvious alternative to the steps contained within the notice which would achieve the purposes of the enforcement notice with less cost and disruption.
23. Thus, for the reasons given above, the appeal under ground (f) must fail.

Conclusion

24. 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 application deemed to have been made under section 177(5) of the 1990 Act as amended.

M Savage

INSPECTOR