



Appeal Decisions

Site visit made on 7 March 2023

by Elaine Gray MA, MSc, IHBC

an Inspector appointed by the Secretary of State

Decision date: 19 May 2023

Appeal A Ref: APP/J4525/C/22/3307659

1A Blyth Square, SUNDERLAND, SR5 4HJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Sam Taylor against an enforcement notice issued by Sunderland City Council.
 - The notice was issued on 30 August 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a timber-clad garden room attached to the gable wall to the side of the property, shown more particularly in the photograph "EN1" and the "proposed" elevations in the plan "EN2", attached to the notice, which was submitted as part of the retrospective application logged under reference 22/01276/FUL, seeking to retain the development undertaken.
 - The requirements of the notice are: (i) With reference to photograph "EN1" and plan "EN2", remove the garden room in its entirety, including any floor or base constructed for its support. (ii) Make good any damage to the brickwork and pointing to the gable wall arising from fulfilling requirement (i) above, using cement mortar and/or matching bricks. (iii) Restore the contours of the garden as previously, using imported topsoil as necessary and finished with turf or sown with lawn quality grass seed. (iv) Remove from the land the dismantled components and all wastes arising from fulfilling requirements (i), (ii) and (iii) above.
 - The period for compliance with the requirements is: Three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (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.
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Appeal B Ref: APP/J4525/W/22/3307655

1A Blyth Square, SUNDERLAND, SR5 4HJ

- 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 Sam Taylor against the decision of Sunderland City Council.
 - The application Ref 22/01276/FUL, dated 13 June 2022, was refused by notice dated 15 August 2022.
 - The development is 'Erection of a single storey garden room to side and fence'.
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Decisions

1. Appeal A is dismissed, the deemed planning application is refused, and the enforcement notice is upheld.
2. Appeal B is allowed and planning permission is granted for 'fence' at 1A Blyth Square, Sunderland SR5 4HJ in accordance with the terms of the application, Ref: 22/01276/FUL, dated 13 June 2022, and the plans submitted with it, so far as relevant to that part of the development hereby permitted.

3. Appeal B is dismissed insofar as it relates to 'erection of a single storey garden room to side'.

Preliminary Matters

4. The description of the development for Appeal B varies between the application form and the subsequent documents. For clarity, I have used the description given on the appeal form as it includes both the fence and the garden room.

Appeal A on ground (a) and Appeal B

Main Issue

5. The main issue is the effect of the development on the character and appearance of the surrounding area.

Reasons

6. No 1A is a two storey end of terrace dwelling occupying a corner site on the junction of Blyth Square and Blyth Street. The development in question is an unauthorised single storey garden room. It is located on the gable end of the house and extends west towards Blyth Street.
7. Policy BH1 of the Sunderland City Council Core Strategy and Development Plan 2015-2033 (CSDP) requires that proposals should achieve high quality design. To that end, development should be of a scale, massing, layout and appearance that respects and enhances the positive qualities of nearby properties and the locality.
8. The Council's document entitled 'Development Management Supplementary Planning Document' (SPD) advises that, in all cases, side extensions should have a width no greater than 50% of the width of the original dwellinghouse, unless a greater width would not cause visual harm.
9. Where a property occupies a plot on a corner or at a junction, an extension to the side wall which faces a road or footpath must be designed to ensure the extension will not appear intrusive within the streetscene. Such extensions should respect the building lines formed by the elevations of neighbouring houses and should also maintain the spaciousness of the plot where spacious corner or end plots are characteristic of the locality.
10. The SPD allows for complementary materials as well as matching materials. In this case, the development is faced in horizontal timber boarding, with a GRP roof and aluminium framed doors. These materials are unobtrusive in nature and result in a clean, unfussy design. They sit comfortably against the mellow red brick of the gable end of the house. I therefore find the materials in themselves to be acceptable in this location.
11. However, the structure is of a significant size relative to the main house. Its front elevation is around 5.6m, narrowing to around 3.9m at the back, and is around 5.65m deep. Its footprint amounts to 43% of that of the original dwelling, which is a substantial increase. The front elevation is approximately 72.7% of the width of the main house. However, because the structure is set back some way from the main elevation of the house, it is less intrusive in views from Blyth Square.

12. However, in views from Blyth Street, the structure is clearly visible. It is apparent from the location plan that the garden plot at No 1A was typical of the suburban layout in the area, which is characterised by more generous plots on the corners. The development infills a large area of the garden and brings the built form significantly closer to Blyth Street, reducing the open character around the junction. The sizeable flue also draws attention to the structure, and did not appear to be a typical feature in the surroundings.
13. Notwithstanding the presence of the fence, the development has introduced a substantial built form where none previously existed. It appears cramped within the site, and is at odds with the prevailing pattern of development in the vicinity. The fact that Blyth Street is not a through road at this end does not mitigate its effect. Conversely, I saw that the extension was particularly dominant and intrusive in the street scene as I approached on foot from the north along Blyth Street.
14. Due to its overall scale, the extension appears overly dominant in relation to the modest proportions of the main property. It is not a subservient addition, and appears out of keeping with the character and appearance of the appeal site and the surrounding area.
15. Drawing these factors together, I conclude that the development unacceptably harms the character and appearance of the surrounding area, contrary to CSDP Policy BH1, and the advice given in the SPD.

Other Matters

16. The appellant refers to a fall back position of constructing an addition that would fall within permitted development limits. However, no such scheme is before me, and so I am unable to draw a meaningful comparison with the appeal scheme. If such a structure was smaller in terms of its height, or any other dimensions, then it follows that it would have a lesser visual impact on its surroundings. This factor limits the weight I can give to this fall back position.
17. The appellant states that the garden room was built to give his family additional space that can be used safely and privately all year round. However, it may be that such a benefit could be achieved through a more sympathetic scheme. I have taken into account the support for the development, but this has not led me to a different conclusion.

Appeal B only – the fence

18. Whereas the enforcement notice attacked only the new single storey structure, planning permission is sought under Appeal B for the both the new structure and a new boundary fence. As I have considered the single storey structure above, I shall consider only the new fence within this section.
19. The existing and proposed site plan drawing shows that the new fence is around 5cm higher than the previous fence. It also extends further towards Blyth Square, replacing some conifer hedging. The new fence is made from close boarded vertical timbers, which is similar to the old fence. The planning officer's report raised concerns that the new fence was uncharacteristic of the area and highly visible within the street scene. However, the Council appears to have revised its stance since that report, and did not include the fence within the enforcement notice.

20. The question then is whether the new fence is materially more harmful to the character and appearance of the area than the previous fence. The additional 5cm in height is too small to have a significant visual impact on the surrounding area. The extended length does have a somewhat greater impact, but it replaces hedging that stood at around 2.4m in height. The degree of enclosure has therefore not substantially increased.
21. I therefore conclude that the new fence has an acceptable effect on the character and appearance of the surrounding area. No conflict therefore arises with CSDP Policy BH1, which relates to design quality.

Appeal A on ground (f)

22. Ground (f) is that the steps required to comply with the requirements of the notice are excessive.
23. The appellant argues that, instead of dismantling the structure, the garden room could be brought within the limits of the permitted development rights set out in Schedule 2, Part 1, Class E of the Town and Country (General Permitted Development) (England) Order 2015. This could be achieved by removing the flue and lowering the roof to 2.5m in height. The Council indicate that they would agree with this approach if the Class E limitations were relevant.
24. However, the 'Permitted development rights for householders - Technical Guidance' (September 2019, Ministry of Housing, Communities and Local Government) sets out an explanation of the rules on permitted development for householders and how they should be applied. It explains that Class E provides permitted development rights for buildings and other structures within the curtilage of a house. However, it clearly states that buildings that are attached to the house are not permitted under Class E, and instead are subject to the limitations of Class A.
25. The Council argue that the suggested changes would not satisfy the requirements of Class A, and the appellant has not demonstrated how this could be achieved. That being the case, I find that the requirements will achieve the aim of the notice, which is to remedy the breach, and so are not excessive.
26. The appeal on ground (f) fails.

Appeal A on ground (g)

27. Ground (g) is that the time given to comply with the notice is too short.
28. The compliance period in this case is three months. Although it is usually the case that appellants will suggest a longer period and give reasons why such a period is reasonable, the appellant in this case has not made any comments under ground (g).
29. Nonetheless, I have discretion to consider the matter on the basis of the evidence before me. The work to remove the structure would not be particularly difficult, or require any specialist knowledge. There is no need for any modification to the main house other than some making good. In these circumstances, I consider that three months is a reasonable length of time in which to carry out the requirements.

30. I am mindful that the Council has discretionary powers to extend the compliance period should this be shown to be necessary.

31. On that basis, the appeal on ground (g) fails.

Conclusion

32. Appeal A is dismissed, the deemed planning application is refused, and the enforcement notice is upheld.

33. Appeal B is allowed and planning permission is allowed insofar as it relates to the fence. In all other respects, Appeal B is dismissed.

Elaine Gray

INSPECTOR