



Appeal Decisions

Site visit made on 19 May 2023

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2023

Appeal A Ref: APP/U4610/C/22/3299790

75 St Ives Road, Coventry CV2 5FY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Charanjit Flora against an enforcement notice issued by Coventry City Council.
- The notice was issued on 29 April 2022.
- The breach of planning control as alleged in the notice is:
 - (a) a two-storey extension to the side (northern facing) elevation of the building in the approximate position shown in blue on the plan marked 'Plan B' annexed to this Notice; and
 - (b) a single storey porch extension to the front (western facing) elevation of the building in the approximate position shown in yellow on the plan marked 'Plan B' annexed to this Notice; and
 - (c) two dormer window extensions to the rear (eastern facing) roof slope of the building in the approximately position shown in green on the plan marked 'Plan B' annexed to this Notice.
- The requirements of the notice are to:
 - (a) EITHER permanently demolish in its entirety the unauthorised side extension and reinstate the northern facing elevation of the resultant building to a similar appearance to that which was in situ previously using materials on the external faces similar to those used predominantly on the original building, OR permanently modify the unauthorised side extension so that it strictly accords with the details approved under the extant planning permission reference HH/2017/2979 determined on 18/01/2018 and any relevant conditions attached; AND permanently remove from the Land all building materials and waste arising from compliance with these requirements.
 - (b) EITHER permanently demolish in its entirety the unauthorised front porch extension and reinstate the western facing elevation of the resultant building to a similar appearance to that which was in situ previously using materials on the external faces similar to those used predominantly on the original building, OR permanently modify the unauthorised front porch extension so that it strictly accords with the details approved under the extant planning permission reference HH/2017/2979 determined on 18/01/2018 and any relevant conditions attached; AND permanently remove from the Land all building materials and waste arising from compliance with these requirements.
 - (c) Permanently demolish the unauthorised dormer window extensions and reinstate the eastern facing roof slope of the resultant building to a similar appearance and height to that which was in situ previously using materials on the external faces similar to those used predominantly on the original building, and permanently remove from the Land all building materials and waste arising from compliance with this requirement.
- The appeal is proceeding on the ground set out in section 174(2)(a) 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.

Summary of Decision: 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.

Appeal B Ref: APP/U4610/W/22/3299786

75 St Ives Road, Coventry, West Midlands CV2 5FY

- 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 Charanjit Flora against the decision of Coventry City Council.
- The application Ref HH/2022/0568, dated 7 March 2022, was refused by notice dated 7 April 2022.
- The development proposed is the retention of dormer window extensions to rear facing roof slope and two storey side extension. (Dormer on left hand side is under permitted development).

Summary of Decision: The appeal is dismissed.

Appeal A – Hidden ground (c) appeal

1. The appeal on ground (c) is whether, on the balance of probabilities, the matters alleged in the enforcement notice (the Notice) do not constitute a breach of planning control. The burden of proof is upon the appellant.
2. The appellant contends that there was some confusion as to whether or not the dormer windows were permitted development and, once completed, they will be considered to be permitted development. Therefore, there is a ground (c) argument, which I shall consider.
3. Notwithstanding whether or not the dormer windows would fall within the parameters of what would ordinarily be permitted development, they were constructed at the same time as the side extension and the porch, as a single form of development. It is not permissible to separate out parts of one development and to argue that those benefit from the grant of planning permission by way of the Town and Country Planning (General Permitted Development) (England) Order 2015 and that other parts of the same development are to be assessed separately. As one building operation, falling within the meaning of development as set out in section 55 of the Town and Country Planning Act 1990 Act (the Act), either the whole of the development benefits from permitted development or none of the development benefits from permitted development.
4. Therefore, as part of the single development requires planning permission, it all requires planning permission and therefore none of it, in this case the dormer windows, is permitted development.
5. The ground (c) appeal fails.

Appeal A - The ground (a) appeal and the deemed planning application; and Appeal B

Background

6. Planning permission was granted in 2018¹ for a first-floor side extension and loft conversion at the appeal property. However, the development was not built in accordance with the approved plans, which resulted in the issuing of the enforcement notice (the Notice), which is the subject of Appeal A.

¹ Council Ref: HH/2017/2979

7. The variations between what has been built and the approved development notably include a set back of the side extension of less than 1m; the erection of a porch; the erection of dormer windows; and, an increase in the ridge height of the extension.

Main Issue

8. The main issue is the effect of the development on the character and appearance of the host dwelling and the area.

Reasons

9. St Ives Road is a residential road lined on either side by two-storey, semi-detached and terraced dwellings and has a gentle incline rising from south to north, identifiable by the slight step-up in roof heights between some properties. Property designs are simple, with few defining architectural features. Front elevations are largely unaltered, although one of the few varying features along the road are front porches. Although these vary with the use of hipped, mono-pitched and gabled roofs and different materials, they are generally modest in scale and subordinate to the front elevation of their host dwelling. Overall, the street has a pleasant, open, suburban character.
10. The appeal property is a two-storey, semi-detached dwelling, similar in scale and design to the adjoining property. There is a dispute between the parties as to how far the first floor of the extension is set back from the front elevation of the original dwelling. The Council argue it is approximately 350mm-400mm. The appellant provides more contrary evidence, firstly stating it is 600mm and then arguing it is approximately 700mm, although the plans submitted with the appeals indicate this measurement to be 600mm. In any event, the setback is much shorter than the minimum 1m set back required by the Coventry City Council 'Extending Your Home – a Design Guide' Supplementary Planning Guidance (SPG) 2003. The SPG, states this set back is in order to protect the character of a given residential area and prevent the linking of non-terraced houses.
11. The front elevation of the first floor remains set back behind the front elevation of the adjacent dwelling, 73 St Ives Road. However, because of its proximity to No 73, its width and its limited set back, the resultant extension has a terracing effect. The appeal property appears as a continuation of the row of terraces No 73 forms part of when viewed from the north along St Ives Road. Consequently, it diminishes the semi-detached character of the host dwelling and the overall streetscene.
12. This harm is exacerbated by the height of the ridge of the extension. Although the ridge height remains below that of the host dwelling and only slightly higher than that of the approved extension, it is comparable to the ridge height of 77 St Ives Road. As such, overall it is read as a separate dwelling rather than as a subordinate extension to the host dwelling.
13. I note the appellant's contention that there are other properties in the locality that have a less than 1m set back. Whilst photographs of these properties have been provided, no addresses have. Therefore, it is not possible to assess the context within which these properties lie. Therefore, I cannot draw a direct comparison with the development before me that would weigh in its favour.

14. The front porch straddles the front elevation of the original dwelling and the extension. Due to its significant width, the porch unduly dominates the front elevation, failing to reflect the scale of the host dwelling. The canopy that extends from the porch across the full width of the two-storey extension adds to the bulk of the porch, exacerbating its overly dominant harm to the front elevation. Moreover, the canopy draws the eye away from the original part of the dwelling, thus emphasising the lack of subordination the two-storey extension has with the original dwelling.
15. Whilst the porch does not project as much as the approved porch and the appellant states that it would also be reduced in height, its width is significantly greater and as a result appears significantly more dominant and incongruous.
16. I have had regard to the examples of two other porches in the locality that have been presented to me by the appellant. Notwithstanding the Council has confirmed that one of these does not benefit from planning permission, neither of them are of the same design as the proposal and do not have the same overly dominant effect. For example, whilst the second porch referred to appears to be similarly as wide as the appeal porch, its massing is broken up through the use of a gable and mono-pitch roof and only has a single door.
17. I acknowledge that the porch has been constructed as such to enable the internal staircase to align with the double door entrance. However, this does not justify the harm the porch has on the character and appearance of the host dwelling and the streetscene.
18. With regard to the two dormer windows, each one occupies approximately half of each of the roof planes in which they have been inserted with each having a narrow, obscure glazed window. Due to the narrow width of the windows the solid to void ratio of the dormers fails to reflect that of the rest of the rear elevation, with the solid form of the dormers being excessively dominant over the windows. Furthermore, the alignment of the windows does not reflect the alignment of the other windows in the lower floors. Consequently, the dormers appear as incongruous additions that fail to reflect the design and proportions of the rear elevation. Whilst the dormers are not visible from the road, they are from neighbouring properties and from within the site itself.
19. I note the dormers have been designed in such away to accommodate the en-suites internally. However, that does not justify such poor design. The use of materials and colours to closely match the roof would not sufficiently mitigate their incongruity.
20. With regard to the increase in the ridge height of the original dwelling's roof by approximately 100mm, there are a number of properties along the road that have higher ridgelines than their adjoining properties, notably in the adjacent terrace row. These typically step down from north to south, which the roof of the appeal property does with 77 St Ives Road. Consequently, I do not find that the increase in the roof height of the original dwelling has a harmful effect on the streetscene.
21. I find therefore, with the exception of the raising of the ridge height of the roof of the original dwelling, the development has a significantly harmful effect on the character and appearance of the host dwelling and the area. As such, it conflicts with Policy DE1 of the Coventry City Council Local Plan 2017, which, amongst other things, seeks to ensure development respects and enhances

their surroundings and positively contribute towards the local identity and character of an area. It would also conflict with the SPG, which provides guidance on house extensions. Furthermore, it would fail to comply with paragraph 130 of the National Planning Policy Framework, which seeks to ensure development is visually attractive as a result of good architecture and is sympathetic to local character.

Conclusion on the Appeal A ground (a) appeal and the deemed planning application; and Appeal B

22. For the reasons given above, having considered the development plan as a whole and all material considerations, I conclude that planning permission should not be granted in response to either the ground (a) appeal against the enforcement notice and deemed application, or to the Section 78 appeal against the refusal of permission. Therefore, Appeal A on ground (a) fails, as does Appeal B.

Formal Decision

Appeal A

23. 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.

Appeal B

24. The appeal is dismissed.

Alexander Walker

INSPECTOR