



Appeal Decisions

Site visit made on 22 May 2023

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2023

Appeal A Ref: APP/J3015/W/22/3304785

53 Enfield Street, Beeston, Nottingham NG9 1DL

- 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 Mrs Parveen Kosar against the decision of Broxtowe Borough Council.
 - The application Ref 2022/00240/FUL, dated 16 March 2022, was refused by notice dated 9 June 2022.
 - The development proposed is described as "revised scheme to extend roof to gable overhang, render side gable to match front of dwelling and construct pitched roof over rear flat roof extension".
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Appeal B Ref: APP/J3015/C/22/3304793

Appeal C Ref: APP/J3015/C/22/3304794

53 Enfield Street, Beeston, Nottingham NG9 1DL

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended (the Act). The appeals are made by Mrs Parveen Kosar (3304793) and Mr Mohammed Yaseen (3304794) against an enforcement notice issued by Broxtowe Borough Council.
 - The notice was issued on 13 July 2022.
 - The breach of planning control as alleged in the notice is without planning permission the construction of single-storey and two-storey extensions, rear dormer and hip to gable roof extension.
 - The requirements of the notice are to:
 - i) Remove the single-storey and two-storey extensions and the dormer and hip to gable roof extension and return the property to its previous form, prior to these extensions, shown as existing in plan ref: SG/18/05/01/01 Dated 05/2018 Planning Application ref: 18/00323/FUL.
 - The period for compliance with the requirement is 16 weeks.
 - Appeal B is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Act. 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 C proceeds on grounds (f) and (g) only.
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Decision

Appeal A

1. The appeal is dismissed.

Appeals B and C

2. It is directed that the notice be varied in Section 6 by deleting "16 weeks" and substituting instead "6 months".

3. Subject to the variation the appeal is dismissed, and the enforcement notice is upheld.

Preliminary Matters

4. On 15 March 2023, the Council granted planning permission (Ref: 23/00032/FUL) for *"extend roof over gable to provide overhanging eaves; remove hanging tiles from gable; application of render to first floor side and rear to match the existing front elevation. Construct hipped roof over first floor rear extension (revised scheme)"*.
5. The 2023 planning permission is material to the effect of the enforcement notice and its requirements. Section 180 of the Act provides that where a planning permission is subsequently granted for the same development, or some part of it, the enforcement notice shall cease to have effect so far as it is inconsistent with that permission. Hence, in this case the effect of the notice is that rather than the whole of the extensions being required to be removed, it now only requires removal of those elements/parts which have not been granted planning permission to be retained under the approved 2023 scheme.

Appeal A, and Appeals B and C – ground (a)

6. The ground of appeal for appeals B and C, is that planning permission ought to be granted for the matters alleged in the notice. The proposals in appeal A are similar to matters alleged in the notice and only differ in the detail of the design. I have considered each appeal on its individual merits. However, to avoid duplication I have dealt with the appeals together, except where otherwise indicated.

Main Issue

7. The main issue is the effect of the extensions on the character and appearance of the surrounding area.

Reasons

8. The area surrounding the appeal site is characterised predominantly by residential properties of traditional architectural styles. The built form of the area is made up by buildings of modest scale with simple roof design. It is this modest traditional built form and architectural stylings that contribute positively to the character of the area.
9. The dormer extensions and roof change from hip to gable are bulky additions that are not sympathetic to the modest roof styles of the area. The appellants detail with regards to appeal A, that the gable elevation of the property would create an overhang eaves detail with rendering to match the first floor render. Nevertheless, the dormer extensions and roof change from hip to gable, due to their scale and design, are dominating additions that detract from the appearance of the surrounding area. The dormer extensions are also not comparable to the dormer extension at 55 Enfield Street, particularly with regards to size and design.
10. The dormer extensions and roof change from hip to gable have a harmful effect on the character and appearance of the surrounding area and are contrary to Policy 10 of the Greater Nottingham Aligned Core Strategies 2014 and Policy 17 of the Broxtowe Borough Council Part 2 Local Plan 2019 which seeks

development to reinforce valued characteristics and integrate into its surroundings.

11. The single storey and two storey rear extensions, due to their size, design and materials, do not have an adverse effect on the character and appearance of the area. The render of the side elevation proposed in appeal A would also be in keeping with the appearance of the appeal building. These matters however would not outweigh the harm that I have described above.
12. I have had regard to the appellants statement of case including reference to builders' advice, cost of building works, photographs, correspondence with the Council and applications in 2018 and 2019 as well as an appeal in 2020. These matters do not alter my findings that the dormer extension and roof change from hip to gable have a harmful effect on the character and appearance of the surrounding area.

Conclusions

13. The proposal in appeal A and the unauthorised development described in the notices of appeals B and C conflict with the development plan as a whole and there are no other considerations, including the provisions of the National Planning Policy Framework, which outweigh this finding.
14. For the reasons given above, I conclude that appeal A should be dismissed and appeals B and C on ground (a) fail.

Appeals B and C – ground (f)

15. An appeal on ground (f) is that the requirements of the notice exceed what is necessary in order to remedy the breach of planning control or, as the case may be, the injury to amenity that is caused by the breach.
16. In this regard the notice requires the complete removal of the extensions (now limited by virtue of section 180 of the Act to those parts which do not benefit from the 2023 permission). It is therefore clear that the purpose of the notice requirements fall within section 173(4)(a) – to remedy the breach of planning control.
17. The appellants argue that the requirements are excessive, and reference is made to a 2018 planning permission, permitted development rights and correspondence with the Council where lesser requirements, primarily the retention of the rear single-storey and two-storey extensions and alterations to the roof, were discussed. From the evidence before me, it does not appear that the 2018 permission has been constructed in accordance with the approved plans. The whole of the development is a breach of planning control as its not in accordance with any planning permission and anything less than full demolition would not fully remedy the breach.
18. Given that in respect of the breach of planning control the notice requirement is to completely remove all of the extensions (limited by the provisions of section 180 of the Act), it is clear that the requirement clearly goes no further than remedying the breach. Anything less than removal would not fully remedy the breach.
19. Accordingly, I conclude that the notice requirements are not excessive and the appeal on ground (f) fails.

Appeals B and C – ground (g)

20. Ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellants seeks 12 months rather than 16 weeks to comply with the requirements of the notice.
21. The appellants case for ground (g) is that further borrowing may be required to finance the works required, along with the availability of builders and building materials. In light of these circumstances, I consider 16 weeks is not a reasonable time for compliance. A period of 12 months, given the extent of work involved would however be excessive and therefore on balance, I consider a period of 6 months would be more reasonable.
22. The appeal on ground (g) therefore succeeds to this limited extent and I have varied the notice accordingly.

Chris Baxter

INSPECTOR