



Appeal Decision

Site visit made on 16 May 2023

by P White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 June 2023

Appeal Ref: APP/J1535/C/22/3291574

Abbess House, Green Hill Road, Abbess Beauchamp and Berners Roding, Ongar CM5 OPA

- 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 Nigel Barnes against an enforcement notice issued by Epping Forest District Council.
 - The notice was issued on 15 December 2021.
 - The breach of planning control as alleged in the notice is: without planning permission the erection of a single storey front and two single storey side extensions on a detached garage building.
 - The requirements of the notice are:
 - (1) Remove the unauthorised extensions, to the garage, as shown hatched black on the attached Plan B.
 - (2) Remove from the land any resulting debris.
 - The period for compliance with the requirements is: 2 months.
 - The appeal is proceeding on the grounds 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.
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Decision

1. It is directed that the enforcement notice is corrected by the deletion of the word "Pan" and its substitution with the word "Plan" in section 2 of the notice. Subject to that correction, 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.

Applications for costs

2. An application for costs was made by Mr Nigel Barnes against Epping Forest District Council. This application is the subject of a separate decision.

The Notice

3. Section 2 of the notice, which refers to the land to which the notice relates, includes reference to the "attached Pan A". A later reference in Section 5 refers to the "attached Plan B". The intention is clearly to reference "Plan A" and "Plan B", which are attached to the notice, and no other party have suggested any other interpretation of that section. No injustice would therefore be caused to either party arising from correction of Section 2 of the notice to delete reference to "Pan A" and substitute it with the words "Plan A".

The appeal on ground (a)

Preliminary and Procedural Matters

4. In the reasons given for issuing the enforcement notice, reference was made to policies of the 'Adopted Local Plan and Alterations (2006)'¹, and of the Submission Version of the draft Epping Forest District Local Plan. The Epping Forest District Local Plan 2011-2033 (2023) (EFDLP) was adopted on 6th March 2023, and supersedes the policies stated in the enforcement notice. The appellant and the Council have had an opportunity to comment on this change.
5. The appellant advises that the development commenced but was halted in early 2021 following a visit by a Council enforcement officer. A planning application (reference: EPF/1393/21) was submitted, through which the appellant sought consent for flat roofed extensions to the outbuilding to facilitate its use as a snooker room. The application was refused by the Council and was followed by the enforcement notice, which is the subject of this appeal.
6. The appellant's submissions on ground (a) refer to the appellant's proposed completion of the development, that being that which was subject to the previous planning application. S177(1)(a) of the Act makes clear that it is only open to me to grant planning permission in respect of the matters stated as constituting a breach of planning control, whether in relation to the whole or any part of those matters. In essence, the development for consideration is that which existed at the date the notice was issued. The development carried out is part of the proposed development, being in the same locations and of the same design. However, completion of the development as proposed would require significant additional works, including completion of the blockwork and brickwork construction (and at one end commencement of brickwork), the installation of roofs, windows and doors. These works would take the development beyond that which could reasonably be considered to be part of the matters enforced against. I have therefore considered the development as it was at the time the notice was issued, as a partially completed structure.

Main Issue

7. The main issues are the effect of the development on the significance of heritage assets including:
 - the setting of the locally listed building Abbess House; and
 - whether the development preserves or enhances the character and appearance of the Abbess Roding Conservation Area.

Reasons

8. The appeal site is Abbess House, a locally listed building, in the Abbess Roding Conservation Area (CA), and within the Metropolitan Green Belt. The enforcement notice relates to partially constructed extensions to an outbuilding (the outbuilding) in its frontage between the dwelling and Green Hill Road.

¹ Epping Forest District Council Combined Local Plan (1998) and Local Plan Alterations (2006).

The locally listed building:

9. Paragraph 202 of the National Planning Policy Framework (the Framework) requires me to take into account the effect of the development on the significance of 'non-designated' heritage assets, which includes Abbess House as a locally listed building.
10. Abbess House was once the rectory to the Parish Church of St. Edmund, located opposite the appeal site on Green Hill Road. Built in 1912, it is a large red brick house described in the Local List as having Queen Anne revival influences, and historic and aesthetic value.
11. The outbuilding is one of two constructed in the same period as the house, and which complement its architectural style. Its siting makes it a significant part of the dwelling's setting, being separate from the house but closely associated with it across the gravel forecourt. It is of traditional construction with brick walls, curved blue/black corner bricks, cast-iron guttering, and a pitched tiled roof. With the information before me, its original purpose is not certain, but at one point it was used as a garage, with a loft space above.
12. In its current form, extensions at one end and at the front of the building are partially constructed with facing brick at, or close to, eaves level. At the other end only blockwork construction has taken place. A large structural steel support across a newly formed central opening extends above the eaves level of the original building, cutting into its roof.
13. The brickwork used, including its bond and curved corner bricks, generally reflects the style and character of that used on the original building. The small footprint of the extensions mean they remain subservient to the outbuilding, which itself remains subservient to the dwelling. However, its unfinished nature, with its exposed structural steel support extending above the roof slope, its exposed blockwork, and the domestic proportions of its openings, change its form. Although the unfinished works are smaller in scale than the development proposed by the appellant would be on completion, they nevertheless harm the character of the building.
14. Given its close association with the dwelling, the harm I identify to the character of the building results in corresponding harm to the setting of the locally listed building, in terms of its historic and aesthetic value.
15. In conclusion, the development is harmful to the setting of the locally listed building Abbess House, and is not mitigated by good design. In accordance with EFDLP Policy DM7, which requires the settings of heritage assets to be preserved or enhanced in a manner appropriate to their significance, and the Framework paragraph 203, a balanced judgement is required having regard to the scale of any harm and the significance of the heritage asset. That balance is carried out at the end of my decision.

The Conservation Area:

16. I am required, by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area (CA). Paragraph 189 of the Framework also sets out how heritage assets are irreplaceable resources which should be conserved in a manner appropriate to their significance. Paragraph 200 requires clear and convincing justification for

harm to the significance of a designated heritage asset, and paragraph 199 requires great weight to be given to an asset's conservation.

17. Abbess Roding is a hamlet which has evolved around the 14th Century Parish Church of St. Edmund along Green Hill Road and School Lane. Buildings are set well back from the road within large plots, and verges are lined by mature trees and hedges. With the information before me I consider the significance of the CA to be associated with its historic and architectural interest. Abbess House, as a former Rectory and building of architectural character, makes a positive contribution towards its significance in both respects.
18. Thick vegetation along the site boundaries significantly restricts views of the outbuilding from the street, and protection afforded to trees within Conservation Areas is likely to secure their retention. Although glimpses of the rear wall and roof of the outbuilding can be seen from the road, visibility of the extensions is very limited.
19. However, despite the containment of buildings generally within the landscape-dominated setting, Abbess House has close historic associations with the 14th century Parish Church of St. Edmund, which is described in the Conservation Area Appraisal as the focal point of the settlement. It also acknowledges that all the buildings are set well back from the road within large plots. Therefore, notwithstanding its limited visibility from the street, the harm resulting to the character of Abbess House arising from the development also harms the character of the CA, and its significance.
20. In conclusion, for the reasons above, the development fails to preserve or enhance the character or appearance of the Abbess Roding Conservation Area, and conflicts with the relevant provisions of EFDLP Policy DM7, which require the preservation or enhancement of heritage assets, having regard to the architectural or historic interest of its character and appearance, in a manner appropriate to their significance. This harm is less than substantial harm, according to the terms of the Framework, and is weighed against the public benefits of the development below, in accordance with paragraph 202 of the Framework.

Other Matters

21. The appellant advises that the Council purported to invite pre-application advice in an informative on the refusal of the planning application, but issued the enforcement notice before it was made. He also sought pre-application advice in relation to an alternative design, which would incorporate some of the works carried out to date, with pitched roofs and revised openings. I have not been advised of the outcome of that advice, and the appellant has not appealed under ground (g), on the basis that the time period for complying with the requirements of the enforcement notice was too short. Nevertheless, in the event that a suitable scheme is negotiated, the Council have the power to extend the time period for compliance with the requirements of the notice, in order to facilitate the consideration of a planning application.
22. The appellant advises that the building was not of a sufficient size for use as a garage for modern vehicles, that the additional length and width are modest, and are required in order for it to be used as a snooker room. These private benefits attract only a limited degree of weight in favour of the development.

23. Given the very limited visibility of the extensions from beyond the appeal site, there would not be a detrimental impact on the setting of the Grade II listed Church of St. Edmund. This matter is neutral in the planning balance, as is the absence of objections from other interested parties.
24. The appeal site is also located within the Metropolitan Green Belt. However, as I am dismissing the appeal for other reasons, I have not considered this matter further.

Planning Balance and Conclusion

25. I have not found public benefits in favour of the appeal scheme, and afford only limited weight to the private benefits in favour of the development. Neither the public nor private benefits therefore outweigh the significant weight I attribute to the harm to the setting of the locally listed building, or to the less than substantial harm to the significance and character of the Abbess Roding Conservation Area. Further weight against the development is given to the associated conflict with development plan policy, and policies of the Framework.
26. For the reasons given above, I therefore conclude that the appeal on ground (a) should not succeed. I shall uphold the enforcement notice with a correction and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

P White

INSPECTOR