



Appeal Decision

Site visit made on 20 June 2023

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2023

Appeal Ref: APP/H1515/C/21/3288468

Land known as 9 Shenfield Road, Brentwood, Essex CM15 8AH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Landon House Property Ltd against an enforcement notice issued by Brentwood Borough Council.
- The notice was issued on 11 November 2021.
- The breach of planning control as alleged in the notice is Without planning permission, the unauthorised construction of a roof extension at second floor level refused on Appeal under planning inspectorate reference H1515/W/19/3242353 within the area etched in RED on the attached site plan ("Appendix 1").
- The requirements of the notice are to:
 1. Remove the unauthorised rear extension/infill
 2. Restore the building prior to the unauthorised development taking place.
 3. Remove from the land all materials arising from compliance with steps 1 & 2.
- The period for compliance with the requirements is 6 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.

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. Planning permission was refused¹ and a subsequent appeal² dismissed to build a roof extension on the rear section of Landon House. Permission was also refused³ but allowed on appeal⁴ to build a roof extension on a detached garage building to the rear of Landon House. The latter has not been built and the appellant is of the opinion that the permission is no longer extant. Building works that broadly reflect the development that was dismissed on appeal have been carried out, resulting in a roof extension to the rear of Landon House. Planning permission⁵ was refused on 29 October 2021 to retain the roof extension. The application was accompanied by a Heritage Statement. These works are the subject of the enforcement notice.

¹ Ref 19/00644/FUL

² Ref APP/H1515/W/19/3242353

³ Ref 19/00645/FUL

⁴ Ref APP/H1515/W/19/3242366

⁵ Ref 21/01467/FUL

3. Since the previous applications and appeals were decided, and after this enforcement notice was served, the Brentwood Local Plan was adopted in March 2022. Copies of the relevant policies have been provided, which have replaced the policies listed in the reasons for issuing the enforcement notice.

The appeal on ground (a) and the deemed planning application

4. Having regard to the reasons for issuing the notice, the main issue is the effect of the development on the character and appearance of the Brentwood Town Centre Conservation Area (CA).
5. The CA is a relatively large area covering the historic core of the town. Shenfield Road is distinguished by Georgian houses on a spacious tree-lined road, in contrast with the High Street which has a strong retail function. The appeal site comprises Landon House, built in the interwar period between 1920 and 1939, in a neo-Georgian style that mirrors the Grade II* listed Old House and the Grade II listed building at The Hermitage nearby. Landon House was built with the adjacent Burntwood House to complement the older buildings in Shenfield Road. The rear part of Landon House is two storey with a flat roof with a railing. To the rear of the main building is a detached garage which is part single and part two storey. Landon House makes a positive contribution to the CA, in particular through its highly visible neo-Georgian frontage, with the rear section of the building being lower and more informal, which is characteristic of the rear elevations of the buildings in this part of the CA, giving a sense of openness.
6. The development has added a mansard roof to the flat roofed two storey element to the rear, in a style that matches the main roof of the building. It is visible in a glimpsed view down the side of the building from the front. There is a very limited view of the rear extension from Ongar Road at an oblique angle, where it is seen within the context of the rear yards and various additions and alterations that have taken place to neighbouring buildings.
7. While the development is not prominent in views from Shenfield Road, it has added bulk to the flat roof and filled in part of the upper level gap between the main building and the detached garage. This has reduced the openness of the back yard area which has caused some limited harm to the character and appearance of the building and the space around it at the rear of the site. This is apparent in the glimpsed view from Shenfield Road and within the site. There are other flat roofs in the vicinity of the site, and it is not the case that the development has removed an anomalous built form. The development detracts from the character and appearance of the building, and reduces its contribution to the significance of the CA. The development therefore fails to preserve or enhance the character and appearance of the CA.
8. I have had regard to the previously dismissed appeal, but I have determined the appeal based on my own assessment of the merits of the development. Although a new local plan has been adopted since the previous appeal was dismissed, the relevant policies do not indicate that there has been a material change in circumstances that would indicate that I should come to a different conclusion.
9. The appellant states that the existing roof tiles will be replaced with tiles to match the host building, and that therefore it is materially different from the refused and dismissed scheme. However, in paragraph 10 of the appeal

decision, the Inspector notes the use of matching materials. It is therefore not materially different from the previous scheme in this regard. The use of higher quality matching materials would not overcome the harm that has been caused.

10. Although the harm is limited and less than substantial in terms of the balance required in paragraph 202 of the National Planning Policy Framework (NPPF), the Inspector previously found that it was not outweighed by the public benefits of the proposal, including securing its optimum viable use. The development has extended flats 7 and 9 and has thereby improved the existing housing stock. I have no reason to disagree with the previous inspector's view that the public benefits do not outweigh the less than substantial harm that has been caused to the designated heritage asset.
11. The appellant also argues that there are benefits in terms of sustainability and carbon footprint in not removing the development. However, I have concluded that the development is harmful and that the notice should be upheld. It follows that the development must be removed in order to comply with the notice. It is unfortunate that the appellant built the extension in the erroneous belief that it had been allowed on appeal. While I have sympathy with the appellant's situation, this does not affect my determination of the appeal.
12. For the reasons set out above, the development is harmful to the character and appearance of the CA. It is therefore in conflict with policies BE14 and BE16 of the Brentwood Local Plan 2022, insofar as they seek to ensure that development responds positively to its context and that the siting, design and scale of development preserves or enhances the character or appearance of the CA. It would also be in conflict with the NPPF.
13. The appellant suggests that an alternative would be to have a smaller extension on the rear elevation, which would be more sustainable and improve the longevity of the building by minimising the risk of leaks and damage. It is possible that such an alteration could from 'the whole or part of the matters' that constitute the breach of planning control, but in the absence of drawings, I cannot conclude as to whether it would form part of the matters. In any event, it is not clear what the resulting appearance of the roof would be, and whether it would overcome the harm that I have identified to the character and appearance of the CA. Therefore, the suggested alteration to the roof extension would not overcome the planning harm.
14. I conclude that the appeal on ground (a) should not succeed, and planning permission shall be refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The ground (f) appeal

15. The ground of appeal is that that the steps required by the notice to be taken, 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. As the notice requires the extension to be removed in its entirety, the purpose of the notice is to remedy the breach of planning control.
16. The appellant considers that step 1 is excessive. However, a lesser step would not remedy the breach of planning control. The appellant suggests an

alternative would be to put a smaller roof on the rear elevation, but I have already found that this would not be acceptable in planning terms. I do not therefore find that it is an obvious alternative that would achieve the purpose of the notice with less cost and disruption. The appeal on ground (f) therefore fails.

The ground (g) appeal

17. The ground of appeal is that the period specified in the notice falls short of what should reasonably be allowed. The period for compliance is 6 months and the appellant states that 12 months would allow for the enforcement works to be carried out, allowing for delays affecting the building trade following Brexit and the Covid-19 pandemic. In my view, 6 six months would be sufficient to allow the relatively limited works to take place.
18. Furthermore, there is a tenant who requires sufficient notice. Two tenancy agreements have been provided for flat 6. One was signed on 21 March 2022 for a period of 12 months, which has already expired. The second is dated 4 March 2023, when the appellant would have been well aware of the existence of the enforcement notice and its compliance period. It seems to me that 6 months strikes a reasonable balance between the concerns of the appellant and the need to bring the breach of planning control to a timely resolution. The appeal on ground (g) therefore fails.

Conclusion

19. 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.

N Thomas

INSPECTOR