



Appeal Decision

Site visit made on 7 August 2023

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th August 2023

Appeal Ref: APP/W1525/C/22/3301320

The Royal Tiger, Southend Road, Rettendon Common, Chelmsford CM3 8EE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Auzora Lounge LTD against an enforcement notice issued by Chelmsford City Council.
- The notice was issued on 17 May 2022.
- The breach of planning control as alleged in the notice is the construction of an extension.
- The requirements of the notice are:
 - i. Demolish the extension shown outlined in green at the approximate location on the attached plan;
 - ii. Remove from the land all debris and other waste material resulting from the works carried out at step (i).
- The period for compliance with the requirements is three 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.

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. There was no representative for the appellant at the arranged site visit, but I was able to see enough of the site and the extension from public land on an unaccompanied basis in order to be able to determine the appeal. The appellant and their agent have been informed and I am satisfied that no injustice is caused.
3. The grounds of appeal refer to a previous permission for an extension in the same location. The appellant states that planning permission had previously been granted and on that basis the structure now in place was erected into the existing footings. The same materials were used as for the previous structure and it therefore complied with what was previously in place.
4. The Council has provided details of the planning history of the site. A smaller ground floor rear extension was permitted in 2008 but in the Council's view was not implemented¹. In 2011 a further planning permission² was granted for the same scheme but the Council states that it was not built. A timber deck

¹ Ref 07/02131/FUL

² Ref 10/01723/FUL

was built in its place, and planning permission was granted for this in 2012³. I have not been provided with details of the approved extension, but the Council states that those permissions have now lapsed and I have no reason to disagree. I have seen no firm evidence therefore that there is an extant planning permission for an extension in the same position.

5. The appellant has also stated that if the height specification is outside the permitted allowance, it will be lowered. However, as there is no extant planning permission for an extension there is no 'permitted allowance' in terms of height. The appellant has not referred to any permitted development rights for the works. Furthermore, there is no appeal on ground (f) in which to consider whether the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control.

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

6. 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 site and surrounding area.
7. The site is in a rural area which is characterised by open farmland with boundary trees and hedges. It consists of a former public house fronting the main road. There is a small cluster of houses immediately to the south of the site at The Paddock. The main building is finished in traditional materials, with clay tiles on the roof and weather boarding to the first floor elevations. To the rear and side of the main building are various single storey extensions, with the elevations that are visible from the site frontage being finished with materials that match the main two storey building.
8. The extension has been built to the rear of the main building and is taller than the single storey part of the building to which it is attached. It has an unusual break in its roof slope that forms a step. The roof has a shallow pitch and is covered in a dark grey material. The elevations are clad in grey horizontal boarding. The materials are at odds with the appearance of the host building. Even if, as the appellant states, the materials have been used for the previous structure, the combination of its size, roof form and materials mean that it appears that as a large and dominant feature that is out of character with the host building. Furthermore, it detracts from the open rural area in which it is sited.
9. For these reasons, the development is harmful to the character and appearance of the site and surrounding area. It is thus in conflict with Policies S11, DM11 and DM23 of the Chelmsford Local Plan 2020, insofar as they seek to ensure that extensions respect the character and appearance of the area, are not harmful to rural beauty, or out of keeping with their rural context.
10. I have had regard to the points raised in the appellant's grounds of appeal. It has not been demonstrated that there is a previous permission that could be implemented that justifies the harm that I have identified. It has also not been demonstrated that the Council previously considered a similar extension to be acceptable. The planning history of the site does not therefore indicate that the appeal should be allowed.

³ Ref 12/00078/FUL

Conclusion

11. For the reasons give 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