



Appeal Decisions

Site visit made on 29 August 2023

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2023

Appeal A Ref: APP/N1540/C/22/3292921

Appeal B Ref: APP/N1540/C/22/3292922

38 St. Johns Avenue, Harlow, Essex CM17 0BB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. Appeal A is made by Mr B Pammen against an enforcement notice issued by Harlow District Council. Appeal B is made by Mrs Pammen.
- The notice, numbered HW/EN/21/00104, was issued on 19 January 2022.
- The breach of planning control as alleged in the notice is 'Without planning permission the erection of a large porch on the front elevation of the dwelling in a Conservation Area'.
- The requirements of the notice are to remove the unauthorised porch.
- The period for compliance with the requirement is 4 months.
- 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.

Appeal C Ref: APP/N1540/W/22/3292924

38 St. Johns Avenue, Harlow, Essex CM17 0BB

- 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 and Mrs B Pammen against the decision of Harlow District Council.
- The application Ref HW/HSE/21/00558, dated 22 September 2021, was refused by notice dated 10 December 2021.
- The development proposed is 'Retrospective application for construction of front porch'.

Decisions

1. Appeals A and B - the appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.
2. Appeal C - The appeal is dismissed.

Preliminary Matters

3. As set out above, there are 3 appeals. Following the refusal of retrospective planning application Ref. HW/HSE/21/00558, the Council served an Enforcement Notice on parties with an interest in the Land. Although there is variation in the descriptions used, the development in each appeal is the same. Furthermore, the reason given for serving the Notice is identical to the reason stated in the Council's earlier Decision Notice on the refusal of planning permission. Accordingly, I have dealt with the appeals concurrently unless otherwise stated to avoid repetition.
4. At my site visit it was apparent that there was some deviation between the plans submitted with the planning application and the as-built porch. For the

avoidance of doubt, as the planning application was made under the provisions of s73A of the 1990 Act for development already carried out, I have considered the development as viewed on the ground.

5. On 5 September 2023 the Government published a revised version of the National Planning Policy Framework (the Framework). However, the design and historic environment policies that are relevant to the appeals have not changed and there was no need therefore to invite the parties to make further submissions in response to the revisions.

**Appeals A and B: Ground (a) – the deemed applications for planning permission, and Appeal C – the refusal of planning application
Ref. HW/HSE/21/00558**

Main Issue

6. The main issue in the appeals is whether the development preserves or enhances the character or appearance of the Harlow Garden Village Conservation Area (the CA).

Reasons

7. The site is a residential property featuring a detached 2-storey modern dwelling set behind an open hard-surfaced forecourt with a garden to the rear. The building features a hipped main roof with projecting front gable; the front elevation is constructed in buff brickwork, elsewhere render is used.
8. The site lies within the CA. St John's Avenue is a planned residential street predominantly characterised by detached and semi-detached 2-storey dwellings set behind front gardens or parking areas either side of the tree-lined road and intermittent roadside verges. Although there is a high degree of variation in the designs and appearance between what are often grouped house styles, the majority date from the last century and collectively present in the garden village architectural style. Aligned buildings in regular plots often display shared features, detailing and external materials to provide a pleasing degree of cohesiveness across this part of the CA.
9. As the site is located within the CA, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving or enhancing the character or appearance of the CA. The site's position outside of a group of buildings individually recognised as non-designated heritage assets within the CA, and beyond the boundary of an Article 4 Direction area, does not remove or dilute this duty. Paragraph 199 of the Framework requires that I give great weight to the conservation of the CA.
10. Although no.38 is a later addition to the street, alongside the mirrored neighbouring property at 38a St John's Avenue, the dwelling's design, position, light colouring, feature front gable and scaling enable it to assimilate with the overriding character of development in the locality. This is not disputed by the appellants.
11. The submitted plans show that the porch replaced a modest open canopy above the front door. Whilst subservient in scale compared to the dwelling, the combined effect of the width, height and projection of the porch appears as a significant feature on the main façade.

12. The extension partly masks the connection between the front gable and the wider recessed part of the principal elevation. The broad width of the structure extends close to the main ground floor openings limiting the lateral space between the individual features. Indeed, the width causes the porch's eaves and rainwater goods to partly encroach across the flanking window headers and apertures such that it appears to dominate the elevation.
13. Although some reference is made to the use of the external render and grey roof tiles elsewhere on the dwelling, the dark framing of the uncharacteristic double door openings, sidelights and mismatched spreading gable apex highlight the contrast with the building's original architectural detailing. Along with the facias, those elements contrast with the counterparts of the main dwelling.
14. The visual effect of the scale and contrary detailing of the modern design is increased by the incorporation of an expansive area of frosted glazing across the larger part of the porch frontage. Together, they cause the structure to stand out as a disproportionately large addition that dominates the building's principal elevation. In addition to undermining the characteristic main gable, the effect draws the eye. It appears excessively prominent in views along the street to the detriment of the wider streetscene.
15. In support of the appeals, the appellants direct me to numerous examples of altered and modernised building frontages in the locality. However, elsewhere on the avenue, most roofs over ground floor features such as bay windows and entrances, have refined hipped or mono-pitched roofs sloping away from the street. This limits their visual dominance against the host properties and their prominence in the wider streetscene. Furthermore, most are designed to be architecturally consistent with the various styles of houses that they are attached to, both in scale and appearance.
16. Against the prevailing examples of modest frontage porches, bays and canopies, the example of a large front extension to 39 St John's Street, highlighted by the appellants, is in the minority. It does not therefore provide a strong justification in favour of the development.
17. For reasons given above, I find that the porch extension relates poorly to the host building and is a prominent and discordant feature that fails to preserve or enhance the character and appearance of the wider CA.
18. Whilst this harm would be no greater than less than substantial within the context of Paragraph 202 of the Framework, less than substantial harm does not equate to a less than substantial planning objection. Moreover, there are no public benefits that would outweigh the totality of the harm identified.
19. I therefore find that the development conflicts with PL1 and PL12 of the Harlow Local Development Plan [2020] and the Harlow Design Guide Supplementary Planning Document as they require, amongst other things, that development takes account of, and harmonises with the local character and context of the built environment, utilises responsive design, scaling and detailing that respect the size and features of the building extended, and sustain or enhance the character and appearance of designated heritage assets.

Other matters

20. The appellants contend the Council's action was not expedient given that a similarly scaled development could be constructed under Class D of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GDPO). Whether or not it was expedient for the Council to resort to formal action is not a matter for this appeal.
21. It is a well-established principle that the provisions of the GPDO may provide a fallback position. The appellants contend that the porch is only marginally over the dimension limits set out in Class D of Part 1 such that only a reduction of 67cm² in area and 30cm in height would be required. However, it is unclear as to whether those dimensions are based on the plans submitted with the planning application or reflect the development as-built.
22. Notwithstanding, although individually relatively small differences, the combined effect on the overall scale of the structure would be notable. It would therefore also notably reduce the harm I have identified. Accordingly, it is a fallback position of limited merit in the appeals.
23. Moreover, for the purposes of enforcement appeals A and B, the appellants have not proposed this as an alternative to the requirement in the Notice and the provisions of the GDPO cannot be retrospectively applied. It would not change the approach to development set out in s38(6) of the Planning and Compulsory Purchase Act 2004 or therefore exempt the development from complying with the requirements of the development plan. As there is little before me to demonstrate what measures could be taken to alter the porch to meet the development plan requirements, the fallback claim is of negligible weight in those appeals.
24. Given its position away from the plot's side boundaries and distance to neighbouring properties, the development is unlikely to adversely affect the living conditions of neighbouring residents. Furthermore, the retention of space to the frontage could accommodate the parking of some motor vehicles to avoid highway safety impacts. However, as requirements of the development plan, these are not benefits in favour of the development.

Conclusions

25. Taking all of the above together, I find that the development conflicts with the development plan taken as a whole and there are no other considerations, including the revised Framework, that outweigh this conflict.
26. **Appeals A and B:** for the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.
27. **Appeal C:** the appeal is dismissed.

R Hitchcock INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/N1540/C/22/3292921	Mr B Pammen
Appeal B	APP/N1540/C/22/3292922	Mrs Pammen
Appeal C	APP/N1540/W/22/3292924	Mr & Mrs B Pammen