



Appeal Decisions

Site visit made on 29 August 2023

by M Madge Dip TP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14/09/2023

Appeal A Ref: APP/Y2003/C/22/3307183

26 Portman Road, Scunthorpe DN15 8PD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Argintas Slajus against an enforcement notice issued by North Lincolnshire Council.
- The notice, numbered EN212, was issued on 8 September 2022.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a timber framed extension to the rear of the property.
- The requirements of the notice are (i) remove the timber framed extension in its entirety.
- The period for compliance with the requirement is 1 Month.
- The appeal is proceeding on the grounds set out in section 174(2)(b), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal succeeds in part and the enforcement notice is upheld with variations in the terms set out below in the Formal Decision.

Appeal B Ref: APP/Y2003/W/22/3307237

26 Portman Road, Scunthorpe DN15 8PD

- 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 Argintas Slajus against the decision of North Lincolnshire Council.
- The application Ref PA/2022/969, dated 23 May 2022, was refused by notice dated 15 July 2022.
- The development proposed is the erection of a wooden single storey rear extension with decking.

Summary of Decision: The appeal is allowed.

Procedural Matters

1. In relation to Appeal B, the description of development is usually taken from the planning application form (the form). However, the description on the form includes details of construction materials, the location and the relationship with the attached property, 28 Portman Road, which are unnecessary. The appeal parties are clear that the appeal relates to the erection of a wooden single storey rear extension with decking, as set out in the Council's decision notice. I shall proceed on this basis.
2. The development that has occurred is described as a 'timber framed extension' in the enforcement notice (the Notice). Both the Notice and application for planning permission relate to the same extension. Using the same words to describe the development in the Notice as described in the planning application would provide clarity and consistency. I shall vary the allegation accordingly, along with the wording of the corresponding requirement.

3. Section 180(1) of the Town and Country Planning Act 1990 confirms that where, after the service of a copy of an enforcement notice, planning permission is granted for the development carried out before the grant of that permission, the notice shall cease to have effect so far as consistent with that permission. As there are two different types of appeal before me, for clarity, if Appeal B is allowed while Appeal A is dismissed, s180(1) provides for the extension to be retained.

Appeal A:

The Ground (b) Appeal

4. An appeal on this ground is that the corrected matter alleged has not occurred as a matter of fact. The onus of proof is on the appellant, and the relevant test is the balance of probability.
5. The appellant does not dispute that a wooden single storey rear extension with deck (the extension) has been erected. While the appellant may not have known that planning permission might be required for the extension, this does not show that the matter alleged has not occurred.
6. The appellant has therefore failed to meet the relevant test, planning permission is required for the extension with decking and that planning permission has not been granted. A breach of planning control has occurred. For this reason, the appeal on ground (b) fails.

The Ground (f) Appeal

7. An appeal on this ground is that the steps required to be taken exceed what is necessary to remedy the breach of planning control, or as the case may be, the injury to amenity. This Notice seeks to remedy the breach of planning control by requiring the removal of the extension.
8. Various photographs of the extension accompany the planning application submission, appeal submission and the Council's Appeal Statement (the Council's AS). The photographs contained in Appendix 2 of the Council's AS show the extension's mono-pitched roof to be overhanging the neighbouring garden. Whereas the photographs provided by the appellant and those contained in Appendix 1 of the Council's AS show that the extension is no longer overhanging, which is what I saw during my site visit. As the appellant's photographs and those in Appendix 1 of the Council's AS pre-date the issue of the Notice, I find that, at the time the Notice was issued, the extension had the reduced roof structure.
9. The appellant's ground (f) appeal relates to removing the part of the roof that overhangs the neighbouring garden. That work had already occurred by the time the Notice was issued and as such does not amount to a lesser step. Even if it had not, this limited reduction would not address the reasons for issuing the Notice, namely the use of unsympathetic materials and the overbearing effect on the living conditions of the neighbouring occupier. The appeal on ground (f) therefore fails.

The Ground (g) Appeal

10. An appeal on this ground is that the period specified in the Notice falls short of what would reasonably be allowed to complete the steps to remedy the breach

of planning control. The Notice gives a period of 1 month and the appellant is seeking an unspecified period, that would allow for the extension to be removed during 'the spring'.

11. The removal of the extension would not involve complicated building operations. While the appellant may wish to avoid removing it during inclement weather, requiring its removal in 'the spring' would not provide sufficient precision. A period of 3 months would provide flexibility so that the appellant can organise the removal of the extension around his work schedule and suitable weather conditions. The Council confirm they would have no objection to a period of 3 months.
12. The ground (g) appeal succeeds to this limited extent.

Overall Conclusion on Appeal A

13. For the reasons given above, I conclude that Appeal A should not succeed. I shall uphold the enforcement notice with variations.

Appeal B:

Main Issues

14. The main issues are the effect of the development on the character and appearance of the host dwelling and the living conditions of the occupier of 28 Portman Road.

Reasons

15. The host dwelling is a semi-detached two storey house built of red brick and grey tiled roof. Windows are white uPVC. To the rear is a brick and tile single storey extension (the kitchen extension) which extends across part of the rear elevation. There is a large back garden, at the end of which is a detached double garage. Boundary treatment between the host dwelling and its neighbours is high closed boarded fencing. The rear of the property is screened from public views by the dwelling, boundary fencing and high gates.
16. The extension consists of a mono-pitched roof sloping down from below the first-floor rear window height to a level just above the eaves of the kitchen extension. It provides a canopy over what is an outdoor sitting area. The sides have been boarded and the front, facing down the garden, remains open, although I saw that fabric curtains have been hung.
17. While the extension is built of materials that do not match those of the existing dwelling, they are light weight and have a simplistic appearance. The structure may not have been designed to integrate into the original design of the dwelling, but it is a modest, small-scale and functional addition. Furthermore, the mono-pitched roof design is recognised as an appropriate form of development in SPG1: Design Guidance for House Extensions. The extension's design and external appearance therefore has a neutral effect on the character and appearance of the host dwelling.
18. The extension is, in effect, built up to the boundary with the adjoining property, 28 Portman Road. The top part of the timber side wall is visible above the high closed boarded boundary fence. However, the extension's materials are similar in appearance to those of the boundary fence. Furthermore, the part that is visible above the fence is small, and it decreases in height the further from the

dwelling it projects. For these reasons the extension would not be visually overbearing to the occupiers of No 28 or dominate views from the rear window of No 28. Also, given the orientation of these two properties and their juxtaposition to one another, the extension would not cause a significant reduction in daylight or sunlight, or cause significant overshadowing.

Other Matters

19. It has been suggested that the extension has resulted in water ingress and associated damage to No 28 and several photographs have been provided to show the alleged damage. Unfortunately, the photographs of what appear to be internal walls are not sufficiently clear for me to be able to see the alleged damage. Furthermore, the photograph showing what could be black mould on internal window frames provides no context from which it could be determined that its cause is the extension at No 26.
20. The mono-pitched roof slopes down from the rear of the host dwelling and a gutter is provided, which discharges into the gutter on the kitchen extension. While water running off the edge of the mono-pitched roof is a possibility, given the position of the boundary fence, any such water run-off would most likely fall on the appellant's side of the fence. There is nothing before me to show that the extension has resulted in surface water run-off on to No 28, which has then caused flooding or other adverse effects to that property.

Conditions

21. The extension is complete. The imposition of conditions has not been identified as necessary and I see no reason to disagree.

Conclusion on Appeal B

22. The development is not detrimental to the character and appearance of the host dwelling and does not have a significantly detrimental effect on the living conditions of the occupiers of the neighbouring property, 28 Portman Road. For these reasons the development does not conflict with saved policies DS1 and DS5 of the North Lincolnshire Local Plan (May 2003), policy CS5 of the Core Strategy (June 2011), or guidance within SPG1: Design Guidance for House Extensions, which seek amongst other things, to deliver high quality development and preserve residential amenity.
23. The development also complies with the design policies set out in section 12 of the National Planning Policy Framework 2023.

Formal Decisions

Appeal A:

24. It is directed that the enforcement notice is varied by:

In section 3. THE BREACH OF PLANNING CONTROL, the deletion of the words 'timber framed extension' and their substitution with the words 'wooden single storey rear extension'.

In section 5. WHAT YOU ARE REQUIRED TO DO, delete all the words in (i) and substitute the words 'Remove the wooden single storey rear extension in its entirety.'

In section 6. TIME FOR COMPLIANCE, by the deletion of 1 month and the substitution of 3 months as the period for compliance.

Subject to the variations, the enforcement notice is upheld.

Appeal B:

25. The appeal is allowed and planning permission is granted for a wooden single-storey rear extension with decking at 26 Portman Road, Scunthorpe DN15 8PD in accordance with the terms of the application, Ref PA/2022/969, dated 23 May 2022, and the plans submitted with it.

M Madge

INSPECTOR