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## Appeal Decisions

Site visit made on 19 February 2024

**by N Thomas MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 March 2024**

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### **Appeal A Ref: APP/W0530/C/23/3316049**

#### **Land and Dwellinghouse known as Byeways, Station Road, Harston, Cambridgeshire CB22 7NY**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Liming Deng against an enforcement notice issued by South Cambridgeshire District Council.
  - The notice was issued on 5 January 2023.
  - The breach of planning control as alleged in the notice is without planning permission, the construction of a single storey side extension to the southeast elevation of the dwellinghouse, and the construction of a two storey extension to the rear (northeast) elevation of the dwellinghouse.
  - The requirements of the notice are to:
    - i) Remove the single storey side extension to the southeast elevation of the dwellinghouse.
    - ii) Reduce the rear two storey extension to the northeast elevation of the dwellinghouse by two (2) metres in length.
    - iii) Remove the southeast facing dormer window positioned in the middle of the extended rear first floor extension, or construct the dormer as granted permission under planning reference 21/02100/HFUL, or
    - iv) Construct the development in accordance with planning permission reference 21/02100/HFUL, and
    - v) Remove all resultant materials and waste from the land.
  - The period for compliance with the requirements is six 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.
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### **Appeal B Ref: APP/W0530/W/23/3316046**

#### **Byeways, Station Road, Harston, Cambridgeshire, CB22 7NY**

- 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 & Mrs Deng against the decision of South Cambridgeshire District Council.
  - The application Ref 22/01126/HFUL, dated 8 March 2022, was refused by notice dated 19 December 2022.
  - The development is described as 'proposed rear extension to the existing dwelling, including erection of a front boundary wall and gated entrance (part retrospective) – variation to planning permission 21/02100/HFUL.'
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## **Decisions**

### Appeal A

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

The deletion of six months and the substitution of nine months as the time for compliance.

2. Subject to the variation, the appeal is dismissed and the enforcement notice is upheld.

### Appeal B

3. The appeal is dismissed.

### **Preliminary Matters**

4. Planning permission<sup>1</sup> was granted on 16 July 2021 for part single and part two storey rear extensions and front boundary wall and gated entrance. Part of the development had already been carried out.
5. The development was not carried out in accordance with the approved plans. The development as built is subject to an enforcement notice which forms Appeal A.
6. The application the subject of Appeal B sought permission for a variation to the 2021 permission. Although described as a 'proposed rear extension', it is clear that it sought permission for revisions to the part single and part two storey rear extensions that were the subject of the 2021 permission. The drawings submitted with Appeal B and listed in the decision notice<sup>2</sup> indicate that the drawings do not reflect the development that has been built, which appears, amongst other things, to have higher ridge and eaves heights, different fenestration, larger dormer windows on the side roof slopes, and a single storey side extension. I have therefore dealt with Appeal B on the basis of the development that was applied for, rather than the development that has been built.

### **Matters Concerning the Notice**

7. As part of the appeal on ground (f), the appellant states that the requirements of the notice are not clear.
8. Requirement i) requires the removal of 'the single storey side extension to the southeast elevation of the dwellinghouse'. The other single storey extension is on the rear and northeast elevation and does not form part of the alleged breach of planning control. I conclude that requirement i) is sufficiently clear.
9. The appellant is also confused by requirement ii), as compliance with it would result in the two-storey extension being reduced in length but not the adjoining single storey extension. I do not find that this requirement lacks clarity.

### **Appeal A on ground (a) and the deemed planning application, and Appeal B**

10. Having regard to the reasons for issuing the notice and the reason for refusal, the main issue is the effect of the development on the character and appearance of the site and surrounding area.
11. The appeal site is on the edge of the village, forming part of frontage development along Station Road. Although it is within the built up part of the

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<sup>1</sup> Ref 21/02100/FUL

<sup>2</sup> Drawing numbers SC/BY/P/04 Revision C and SC/BY/02 Revision A

village, it is flanked by open countryside within the designated Green Belt, and due to the topography of the area, the side elevation of the property is exposed to views from the surrounding countryside. The submitted information indicates that the original dwelling was modest in scale, with first floor accommodation provided within a steeply pitched roof, and a distinctive gable end facing out across the adjacent open countryside. Beyond the appeal site is a cul-de-sac of more modern and substantial dwellings with a more suburban appearance. As a result of its modest proportions prior to the development taking place, the house would have been relatively recessive in views from the surrounding countryside, providing a semi-rural transitional site between the more densely developed part of the village and the open countryside. It thus made a positive contribution to the character and appearance of the area.

12. The development the subject of the enforcement notice has added a substantial rear two storey extension with a bulky dormer on the side of the roof that is highly visible from the surrounding countryside and Station Road. Overall, the extension has resulted in substantial addition to the rear that is out of scale with the modest proportions of the pre-existing house. The bulky dormer with a large area of mono-pitch roof is akin to a two-storey flat roofed element. The dormer is significantly larger than the area of glazing within it, which makes it appear as a bulky element within the roof slope that is prominent and incongruous.
13. The single storey side extension is relatively modest in scale but in the context of the substantial part two storey and part single storey extension to the rear, it has further added to the built form on the site. Being built up to the side boundary of the property with the open countryside, is particularly apparent in views from the adjacent countryside on Station Road. It further detracts from the appearance of the dwelling and causes harm to the character and appearance of the area.
14. I note that the side extension replaces a single storey flat roofed garage that was on a similar siting. The photographs provided by the appellant indicate that it was less prominent than the current side extension. Furthermore, the extension is seen in the context of the other extensions that have been added since the garage was removed. It adds to and consolidates the quantum of built form on the site, contributing to the harm caused to the character and appearance of the site and surrounding area. I acknowledge that there are other outbuildings in the rear garden and that it is not free from development. Nonetheless the appeal development has added significant bulk to the dwellinghouse that is harmful for the reasons outlined above.
15. The extensions have obfuscated the original modest proportions of the dwelling and detract from its contribution to the character and appearance of the surrounding area, as well as views from the adjacent Green Belt.
16. The rear two storey extension that was refused and forms Appeal B appears to be lower in height than the extension that has been built. However, due to its length it would nonetheless be a bulky addition that would be at odds with the modest proportions of the pre-existing dwelling. It omits the overly large dormer window on the side roof slope, and instead would include two more modest dormers, as previously approved. I note that it seeks to resolve a lack of symmetry to the rear elevation and a stepped rear element. Nonetheless, the overall scale and bulk of the rear extension would detract from the positive

contribution made by the original dwelling to the character and appearance of the area.

17. While both Appeal A and Appeal B relate to extensions that are lower in height than the original dwelling, due to the overall proportions of the rear extensions, both schemes result in substantial additions.
18. The appellants have suggested that landscaping could be secured through a planning condition which would soften the development and provide a more natural transition between the Green Belt and the built-up part of the village. While landscape planting may assist in softening parts of the boundary, it should not be used to screen development that has an unacceptable effect on the character and appearance of the area. Similarly, the appellant suggests that the colour of the single storey element could be changed. However, the colour of the finish matches the rest of the house so it is not clear how this would overcome the harm I have identified.
19. I therefore find that both Appeal A and Appeal B cause harm to the character and appearance of the site and surrounding area. It follows that they conflict with Policies NH8, HQ1 and S2 of the South Cambridgeshire Local Plan 2018, insofar as they seek to ensure that new development is well designed with distinctive character that reflects its location, and development on the edge of settlements surrounded by Green Belt should include careful landscaping and design measures of high quality. It is also in conflict with the National Planning Policy Framework.
20. I am mindful of the previous permission for extensions to the property. The increase in height and length of the extensions the subject of Appeals A and B means that they are materially larger in relation to the original dwelling, due to their increase in height, length and the design and scale of the dormer. As a result they have a greater effect on the character and appearance of the dwelling and cause harm to the surrounding area.
21. The appellants refer to sites in the neighbouring area where permission has recently been granted for extensions. Single storey and part two storey side extension at 12 Church Street<sup>3</sup>, whilst of a contrasting design, appear modest and are not comparable with the appeal developments. At 6 Station Road<sup>4</sup>, the extensions are to the rear and are modest in scale. They do not appear to have a comparable effect on the character and appearance of the host dwelling or the surrounding area as the appeal developments.
22. As the appellants acknowledge, the extensions at 2 Mill Road<sup>5</sup> relate to a property that was already substantial, and it is not therefore comparable with the modest proportions of the pre-existing dwelling on the appeal site. Furthermore, it is not so prominent in views from the Green Belt. While the extensions at 70 Church Street<sup>6</sup> may be visible from the Green Belt, I have seen no evidence that they are as prominent as the appeal developments. None of the examples put forward by the appellants therefore indicate that appeals A and B should succeed.

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<sup>3</sup> Ref 20/04850/HFUL

<sup>4</sup> Ref 21/04794/HFUL

<sup>5</sup> Ref 21/01211/HFUL

<sup>6</sup> Ref 21/05305/HFUL

23. The appellants explain that the variations from the approved development were to meet Building Regulations requirements, and that there was no intention to undertake unauthorised works to the property. However, it is not clear whether other means of complying with Building Regulations requirements have been investigated that may be less harmful to the character and appearance of the area. I also accept that the appellants wish to accommodate their family through enlarging the dwelling. These considerations do not outweigh the harm I have identified.
24. Third parties have raised a range of concerns regarding the developments but as I am dismissing the appeals I have not considered these further.

*Conclusion in relation to Appeal A on ground (a) and Appeal B*

25. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan the determination must be made in accordance with the plan unless material considerations indicate otherwise. In relation to Appeal A on ground (a) and Appeal B, I have found that there is conflict with the development plan with regard to the effects on the character and appearance of the site and surrounding area. The harm that I have identified and the resulting conflict with the development plan as a whole is not outweighed by other considerations. For the reasons set out above, Appeal A on ground (a) and Appeal B do not succeed.

**The appeal on ground (f)**

26. The ground of appeal is that the steps required by the notice to be taken, exceed what is necessary to remedy any breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
27. As the notice does not require the development to be removed in its entirety, the purpose of the notice is to remedy the injury to amenity. I have already dealt with the appellant's concerns about the clarity of the requirements. The appellant considers that requirement ii) is excessive because it will result in a contrived appearance, where the single storey element projects further into the rear garden than the two-storey part of the extension. This will also result in the loss of two rooflights and reduce the penetration of natural light into the ground floor room. It may also give rise to issues with surface water drainage from the roof and structural problems.
28. In relation to the dormer window in requirement iii), the appellant argues that its removal or alteration to comply with the 2021 planning approval would mean that the development would not comply with Building Regulations.
29. I have found that the extensions are harmful to the character and appearance of the site. There are no lesser steps that would overcome the harm that I have identified. I have already concluded that conditions would be insufficient to overcome the harm that has been caused. The appeal on ground (f) therefore fails.

**The appeal on ground (g)**

30. The ground of appeal is that the period for compliance with the requirements of the notice falls short of what should reasonably be allowed. The period for compliance is six months, but the appellant considers that 18 months is

reasonable, due to the disruption that would be caused to family life, the difficulties finding contractors, and the complex nature of the works required.

31. I consider that 9 months would strike a reasonable balance between the need to bring the breach of planning control to a resolution and the interests of the appellant. To this limited extent the appeal on ground (g) succeeds, and I shall vary the notice accordingly.

### **Conclusion**

32. For the reasons given above, I conclude that Appeal A should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended. I shall dismiss Appeal B.

*N Thomas*

INSPECTOR