



Appeal Decision

Site visit made on 25 September 2024

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2024

Appeal Ref: APP/D1590/C/23/3319115

6 Philpott Avenue, Southend-on-Sea, Essex SS2 4RL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Ilir Berisha against an enforcement notice issued by Southend-on-Sea Borough Council.
 - The enforcement notice was issued on 24 February 2023
 - The breach of planning control as alleged in the notice is: without planning permission, the erection of a side extension.
 - The requirements of the notice are:
 - (a) remove the unauthorised side extension in its entirety.
 - (b) remove from site all materials resulting from compliance with (a).
 - The period for compliance with the requirements is 3 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.
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Decision

1. The appeal is dismissed, and 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.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the host building and area.

Reasons

3. The property is a two-storey end of terrace dwelling situated in a residential area. The site is characterised predominantly by terraced and semi-detached residential properties with low front boundary treatments which gives the area an open character. The site forms part of a development of short terraces which are positioned at right angles to Philpott Avenue. Prior to the current unauthorised development, the flank wall of the appeal property was well set back from the pavement edge on Philpott Avenue, which similar to other properties in the street, preserved the openness and feeling of space.
4. Southend on Sea Supplementary Planning Document 1, Design and Townscape Guide, 2009 (Design SPD) highlights that new development should continue established street patterns where they are an integral part of local character,

particularly building frontage lines which determine the proportions of the street. Buildings that are uncharacteristically set back or set forward from their neighbours often look out of place and create negative spaces that are often neglected. The Design SPD also states that alterations to existing buildings should be done so as not to destroy existing character.

5. My attention has been drawn to a previous appeal decision at this site for a single storey side extension, which was dismissed¹. The main difference between that appeal and the current appeal, is that that development proposed to have a pitched roof, to allow the eaves to be lowest facing toward Philpott Avenue. A window was also proposed in the front elevation. In that case, the Inspector considered that "the extension would appear out of character and prominent in the street scene because of its location, size, and scale at the end of the terrace and because of its proximity to Philpott Avenue." He further stated that "The longer terraces located at right-angles to Philpott Avenue form a strong building line. The proposed extension would disrupt this regularity in the layout of the buildings by adding a prominent extension between the building line of these terraces and Philpott Avenue." I agree with the previous Inspector's findings.
6. The current unauthorised development maintains a similar footprint to the previously dismissed scheme, but the proposed plans submitted with the appeal illustrates the development will be finished with a flat roof rather than a pitched roof. Despite the use of matching materials, owing to its size, scale, height and location, filling the gap between the dwelling and pavement on Philpott Avenue, the development forms a dominant, obtrusive and incongruous feature in the streetscene which is at odds with the prevailing pattern of development and open character of the area.
7. I have regard to the appellant's statement which refers to other extensions and garages nearby. However, none of those examples are directly comparable to the size and scale of side extension before me, and therefore do not lend support to the current development. Indeed, the development referred to at 140 Hamstel Road is well set back from the front and does not infill the space between the dwelling and the pavement on Philpott Avenue. I also observed that that garage is lower in height than the current unauthorised development and the proposed plans submitted, and therefore less harmful.
8. I conclude that the development harms the character and appearance of the host building and the area, in conflict with Policies KP2 and CP4 of the Southend on Sea Core Strategy, 2007 (CS), and Policies DM1 and DM3 of the Southend on Sea Borough Council Development Management Document, 2015 (DMD), which amongst other things requires all new development to respect the character and scale of the existing neighbourhood where appropriate and secure improvements to the urban environment through quality design; and to make a positive contribution to the character of the original building and the surrounding area.
9. Finally, the development would not meet the aims of the National Planning Policy Framework, 2023, which requires development to be sympathetic to local character and history, including the surrounding built environment.

¹ Appeal ref: APP/D1590/D/20/3262120 dismissed on 9 March 2021.

Conclusion

10. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The development harms the character and appearance of the host building and area in conflict with the development plan taken as a whole. None of the other matters raised by the appellant, including the benefits of providing an improved garage for off-street parking, making most effective use of land, and lack of harm in relation to amenity space provision outweighs this harm identified. Therefore, there are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.
11. 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.

R. Satheesan

INSPECTOR