



Appeal Decision

Site visit made on 18 March 2025

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 April 2025

Appeal Ref: APP/Q3630/C/23/3320642

51 Prairie Road, Addlestone KT15 2TW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Andrew Stevens against an enforcement notice issued by Runnymede Borough Council.
- The enforcement notice was issued on 31 March 2023.
- The breach of planning control as alleged in the notice is failure to comply with condition 2 imposed on a planning permission ref RU.20/1686 granted on 11 February 2021.
- The development to which the permission relates is:
Construction of two storey rear extension and single storey front extension.
- The condition in question is no 2 which states that:
The development hereby permitted shall not be carried out except in complete accordance with the following approved plans [2649-01 B, 2649-02 B, 2649-03 B, 2649-04 B, 2649-05].
- The notice alleges that the condition has not been complied with in that:
On 11 February 2021 planning permission was granted by the council under reference RU.20/1686 for the "Construction of two storey rear extension and single storey front extension subject to conditions"

One of those conditions was Condition 2 which stated that "The development hereby permitted shall not be carried out except in complete accordance with the following approved plans 2649-01B, 2649-02B, 2649-03B, 2649-04B and 2649-05". Which showed the rear extension to be constructed with a double hip roof with the eaves no higher than the eaves on the existing building.

It appears to the Council that Condition 2 has not been complied with because the rear extension has been constructed with a flat roof, with an eaves height higher than the existing building.

- The requirements of the notice are:
 1. *Demolish and remove from the Land the two-storey rear extension as shown outlined and crosshatched in blue on the attached plan.*
Or
 2. *Modify the two-storey rear extension to comply with the terms of planning permission RU.20/1686 dated 11 February 2021, including the conditions subject to which that permission was granted. (A copy of the decision notice and approved plans reference RU.20/1686 is enclosed.)¹*
 3. *Remove from the Land all materials, debris, plant and equipment associated with requirement 1 and 2 above.*
- The period for compliance with the requirements are:
Six (6) calendar months from the date on which the enforcement notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(f), (g) of the Town and Country Planning Act 1990 (as amended).

Summary of decision: The appeal is dismissed, and the enforcement notice is upheld subject to the corrections and variation in the terms set out in the Formal Decision below.

¹ References to the decision notice and approved plans are to the details attached to the enforcement notice.

Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - Replacing “paragraph (a)” with “paragraph (b)” in section 1;
 - The deletion of the description of the alleged breach of planning control at sections 3.1, 3.2 and 3.3 and the substitution with the following description:

“The rear extension as constructed is in breach of condition 2 attached to planning permission RU.20/1686 granted on 11 February 2021 as it contains a flat roof and eaves height in excess of the existing dwelling which is not in accordance with the approved plan numbers 2649-01 B, 2649-02 B, 2649-03 B, 2649-04 B, 2649-05 attached to that permission.”
 - Deleting the text “Six months (6)” from the time for compliance paragraph at section 6 of the enforcement notice and substituting with the text “Nine months (9) from the date on which the enforcement notice takes effect”.
2. Subject to these corrections and variations, the appeal is dismissed, and the enforcement notice is upheld.

Preliminary Matters

3. There has been a revised National Planning Policy Framework (the Framework) published by the Government since the enforcement notice was issued. However, it does not raise new issues that are determinative for the purposes of my assessment and therefore injustice to the parties does not arise.

Appeal on ground (f)

4. This ground is that the requirements of the notice exceed what is necessary to remedy the breach of planning control or, as the cause may be, any injury to amenity caused by the breach.
5. Having regard to its requirements, it is clear that the purpose of the notice is to remedy the breach of planning control. That purpose includes 1) restoring the land to its condition before the breach took place; or 2) complying with the planning permission RU.20/1686. The latter option provides for retaining most of the existing development at ground and first floor levels, whilst replacing the erroneous roof section, which provides an obvious alternative to its complete removal.
6. The appellant has not appealed the enforcement notice under ground (a) in that planning permission should be granted for the development. As such, I cannot consider the planning merits of the case nor indeed whether the proposal would harm the visual character and appearance of the surrounding area, and thus I can only consider whether lesser steps would suffice to remedy the breach of planning control. No lesser steps have been put forward. Moreover, in the absence of details for an alternative proposal, I have no basis on which to consider whether another option is viable as this could prejudice the parties.
7. Consequently, I find that either option 1) or 2) would be appropriate to remedy the breach of planning control, and as such the requirements of the enforcement notice are not excessive. Given that no lesser steps have been identified that would achieve the aims of the notice, the appeal on ground (f) therefore fails.

Appeal on ground (g)

8. For an appeal on ground (g) to succeed, it is to be demonstrated that the period specified in the notice for compliance in accordance with section 173(9) of the 1990 Act falls short of what should reasonably be allowed.
9. The appellant argues that a period of 12 months is the minimum required to undertake the requirements. The appellant is running a charity building project that relies on donations and has highlighted that they are undertaking most of the works themselves. The appellant also highlights that structural changes may be required to remedy the breach, leading to partial demolition of the extension to strengthen the foundations and reconfigure the interior spaces.
10. In response to these concerns, I am unaware of any financial constraints of the charity and the availability of funding in order to undertake the necessary works. Nevertheless, in my view an increase of three months from six to nine for compliance, would give ample time for the appellant to make the arrangements and carry out the works.
11. To that extent, the appeal succeeds on ground (g).

Overall Conclusion

12. For the reasons given above, I conclude that the appeal should be dismissed, and the enforcement notice is upheld the enforcement notice with corrections and variations.

Robert Naylor

INSPECTOR