



Appeal Decisions

Site visit made on 8 April 2025

by **A U Ghafoor BSc (Hons) MA MRTPI ACMI fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 9th April 2025

Appeal A and B Ref: APP/D5120/C/24/3345748 and 3345749

119 Mayplace Road East, Bexleyheath, DA7 6ER

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ("the 1990 Act").
- The appeals are made by Mr Bhupinder Singh Mann (Appeal A) and Ms Randeep Kaur Mann (Appeal B) against an enforcement notice issued by the Council of the London Borough of Bexley.
- The enforcement notice was issued on 8 May 2024.
- The breach of planning control as alleged in the notice is set out in the Annex to this Decision. The requirements of the notice are set out in the Annex to this Decision.
- The period for compliance with the requirements is 6 months.
- Appeals are proceeding on the grounds set out in section 174(2) (c), (f) and (g) of the 1990 Act. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Appeal C Ref: APP/D5120/D/24/3343850

119 Mayplace Road East, Bexleyheath, DA7 6ER

- The appeal is made under section 78 of the 1990 Act against a refusal to grant planning permission.
- The appeal is made by Mr B Mann against the decision of the Council of the London Borough of Bexley. The application Ref is 24/00172/FUL.
- The development proposed in the application form is retrospective planning application for reference: 23/00312/ENF, non-compliance with the approved plans under reference 22/01770/FUL for part one, part two storey side and rear extension, first floor rear extension, Loft extension, amendment to approved plans under reference 22/01770/FUL.

Decisions

1. Appeals A and B are dismissed, and the enforcement notice is upheld.
2. Appeal C is allowed, and planning permission of granted for retrospective planning application for reference: 23/00312/ENF, non-compliance with the approved plans under reference 22/01770/FUL for part one, part two storey side and rear extension, first floor rear extension, loft extension, amendment to approved plans under reference 22/01770/FUL at 119 Mayplace Road East, Bexleyheath, DA7 6ER, in accordance with the application plans and ref 24/00172/FUL.

Appeals A and B - ground (c)

3. In this appeal the onus is squarely on the appellants to show that the matters alleged do not constitute a breach of planning controls.
4. Express planning permission for extensions and alterations was granted on 23 December 2021 (for convenient shorthand, "the 2021 Permission"). A separate planning permission was granted on 20 September 2022 for a first-floor rear extension ("the 2022 Permission"). The extensions, as built, are different when compared to the approved plans. For example,

a rear dormer window and a parapet wall have been added. These additions are not shown on any of the approved schemes.

5. The claim is that the departure does not constitute a breach of planning control because the dormer window and roof lights are permitted development by virtue of article (3), schedule 2, part 1, class B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (“the GPDO”). Essentially, the argument is the dormer window and rooflights were installed between the implementation of the 2021 and 2022 Permissions.
6. In *Watts*¹ the High Court held that the precise sequence of doing works could affect the availability of the permission which the GPDO provided. The sequence of events, and the situation at the completion of works, mattered for widely separated works, and mattered for those closely following upon each other’s heels. The case provides useful judicial guidance but relates to the simultaneous construction of a roof extension and single-storey side and rear extension. The facts before me are different because no. 119’s roof extension includes a parapet wall.
7. The dormer window and roof lights cannot be considered in isolation from the parapet wall, because these elements appear integral to the roof structure. There is nothing before me to indicate the dormer window and roof lights were substantially completed first and then the parapet wall was added later. It appears to me that the roof alterations are integral and cannot be segmented into different building operations given the overall design and layout of the resulting enlargement. It is reasonable to conclude that the work was carried out simultaneously. Even if the dormer window and rooflights were substantially completed before the scheme permitted by the 2022 Permission was commenced, the roof alterations, when considered holistically, are not permitted development, because of the parapet wall.
8. The development significantly departs from the approved schemes. I find that the extensions, as built, are substantially different in character and external appearance when compared to the approved schemes and the lawful development certificate². The alleged development significantly alters the external appearance of the host building given the bulk and scale of the extensions.
9. Express planning permission is required for the as built scheme, and it has not been obtained. The alleged matters have occurred, and they constitute a breach of planning controls. Ground (c) must fail.

Appeal C – the s78 appeal

10. Retrospective planning permission is sought for the as built extensions. The **main issue** is the effect of the development on the character and appearance of the host dwelling and street scene.
11. No. 119 is a two-storey semi-detached dwelling similar in design and layout to its immediate neighbours. The skylights combined with the hip-to-gable extension do not adversely affect the front elevation of the host dwelling given their design. The dormer window is at the rear elevation and the raised ridgeline is noticeable from within the street scene. These roof alterations have a visually unbalancing effect because the adjoining property retains a hipped roof form.

¹ *R. (on the application of Watts) v Secretary of State for the Environment, Transport and the Regions* [2002] EWHC 993 (Admin); [2002] J.P.L. 1473; [2002] 4 WLUK 326 (QBD (Admin)).

² Council ref: 22/00460/LDCP Proposed alterations to the roofline incorporating hip to gable extension, rear dormer and 3 rooflights to the front slope to create rooms in the roof space granted 8 April 2022.

12. Nonetheless, the domestic style and scale of the roof alteration are not at odds with the external appearance of the host nor adjoining dwelling. The street scene is residential in character comprising similarly designed properties which, over time, have been extended and altered. Roof alterations of the kind before me are not totally alien in this part of the locality.
13. The dormer window and parapet wall are noticeable in views from the rear of no. 119. The dormer has a box-like appearance accentuated by the hip-to-gable extension and parapet wall. Nevertheless, when considered individually or in combination with the side and rear extensions to the host dwelling, the roof alterations do not have an adverse visual effect on the street scene, because of the overall bulk, mass, size and location of the dormer window and parapet wall. The development does not have an incongruous visual effect on the host dwelling or pair of semi-detached properties and the development is not out-of-keeping with the residential character of the street scene.
14. The Council do not suggest that conditions should be imposed, I concur given the overall design of the extensions and alterations is acceptable. In addition, permission is sought retrospectively.
15. Pulling all the above threads together, I find that the development meets with the aims and objectives of Bexley Local Plan (2023) Policies SP5 and DP11, Policy D4 of the London Plan (2021) and design aspirations of the NPPF (2024).

Appeals A and B – grounds (f) & (g)

16. The breach can only be remedied by the steps set out in the notice. These seek to remedy injury to amenity or make the development comply with the terms of the 2021 and 2022 Permissions. I consider that the alternative steps achieve the purpose behind the notice and are not excessive.
17. That said, I intend to grant planning permission via the s78 appeal. To ensure there is an incentive to retain the status quo and comply with the terms of the planning permission, I will rely on the operation of s180 of the 1990 Act. In this context, where planning permission is granted for development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.
18. Given my findings in Appeals A, B and C, I consider that six months is a reasonable period of compliance with the steps required by the notice. The appeals on ground (f) and (g) fail.

Appeals A, B and C – overall conclusions

19. I conclude that the appeals against the enforcement notice should fail. However, for the reasons given above, appeal C succeeds and planning permission has been granted as set out in my Decision above.

A U Ghafoor

INSPECTOR

Annex

The breach of planning control as alleged in the notice is the as follows:

Without planning permission

The construction of a development consisting of a part one/part two storey side and rear extension and first floor rear extension, alterations to the roofline incorporating hip to gable extension, rear dormer and 3 rooflights to the front slope that is not in accordance with the approved plans granted under reference 21/02902/FUL (specifically drawing numbers: 04 dated August 2021, 05 dated August 2021 and 06 dated August 2021) or 22/01770/FUL (specifically drawing numbers: 04 dated July 2022 and 05 Rev-1 dated July 2022).

In section 5) to the issued enforcement notice, the requirements of the notice are to:

- 1) Build in accordance with the approved plans granted under reference 21/02902/FUL (specifically drawing numbers: 04 dated August 2021, 05 dated August 2021 and 06 dated August 2021)
- 2) Remove all debris, waste, materials and equipment resulting from complying with 5(1) above.

Or

- 3) Build in accordance with the approved plans granted under reference 22/01770/FUL (specifically drawing numbers: 04 dated July 2022 and 05 Rev-1 dated July 2022).
- 4) Remove all debris, waste, materials and equipment resulting from complying with 5(3) above.

Or

- 5)
 - i) Remove the rear dormer extension and reinstate the roof slope to a gable end.
 - ii) Remove the 3 rooflights to the front roof slope.
 - iii) Remove the part one/part two storey side extension and
 - iv) Remove the first-floor rear extension.
 - v) Remove rear extension.
 - vi) On completion of the removal of those parts, identified in 5 i)-v) above, from 119 Mayplace Road East, Bexleyheath, Kent DA7 6ER as identified and shown outlined in red on the attached plan ("The Land"), to remove all resultant demolition materials from the Land.

End.