



Appeal Decisions

Site visit made on 3 June 2025

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 July 2025

Appeal A Ref: APP/K0235/C/23/3333247

44 St Leonards Street, Bedford, Bedfordshire MK42 9EQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Kuldip Khuttan against an enforcement notice issued by Bedford Borough Council.
 - The notice was issued on 12 October 2023.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a two-storey side/rear extension.
 - The requirements of the notice are to:
 - i) Demolish the building outlined in green on the plan attached to the enforcement notice.
 - ii) Removal all waste and materials resulting from (i) from the land.
 - The periods for compliance with the requirements are eight months in respect of requirement i) and ten months in respect of requirement ii).
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Appeal B Ref: APP/K0235/D/24/3337514

44 St Leonards Street, Bedford MK42 9EQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Kuldip Khutton against the decision of Bedford Borough Council.
 - The application Ref is 23/02466/S73A.
 - The development proposed is described as 'Works include adding a second storey, rear single storey toilets.'
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Decisions

Appeal A - APP/K0235/C/23/3333247

1. The appeal is dismissed, 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.

Appeal B - APP/K0235/D/24/3337514

2. The appeal is dismissed.

Preliminary Matters

3. The details in the banner headings above are taken from the appeal form and original application form, noting the discrepancy in the spelling of the appellant's surname and that the description of the proposed development in Appeal B is not the same as that used by the Council in their decision notice.
4. Ground (a) is that planning permission should be granted for the matters stated in the enforcement notice. The extension is not complete, although as constructed it

reflects that shown on the proposed plans subject of Appeal B. Accordingly, since the considerations in Appeal B are the same as for Appeal A I have considered the appeals together.

5. The terms of the appeal on ground (a) derive directly from the alleged breach of planning control set out in the notice and as built. Nevertheless, I do have the power under s177(1)(a) of the 1990 Act to grant planning permission for any part of the matters stated in the notice. I am also required to consider whether there is an obvious alternative which could overcome the planning difficulties, at less cost and disruption than total removal as currently required by the notice. Whether an alternative scheme forms part of the matters is a matter of planning judgement.
6. The appellant under ground (a) has not sought to demonstrate that planning permission should be granted for the extension as built, but that permission should be granted for an alternative part two, part single-storey extension, which it seems the Council previously refused permission for, reference 23/00924/S73A.
7. Although the extension is not complete, the proposed extension would involve changes to the overall form of the existing extension, including the demolition of existing and the erection of new walls and changes to the fenestration arrangements. The extent of the changes proposed, and new work required by the suggested scheme would be such that, in my judgement, it does not properly fall within the statutory power to grant planning permission.

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

8. The main issues are the effect of the extension on (i) the character and appearance of the property and area generally and (ii) the living conditions of the occupiers of 42 St Leonards Street with particular regard to outlook and daylight/sunlight matters.

Reasons

Character and appearance

9. 44 St Leonards Street is a relatively modest traditional end of terrace property. To the rear, extensions in this and the adjacent terrace feature part two, part single storey pitched roof outriggers, the majority of which have been retained in their original form.
10. The extension as built and proposed spans the width of the property and occupies a significant proportion of the rear amenity space. As a result of the scale and mono-pitch roof form, the extension has a bulky and dominant appearance which does not reflect the character and scale of the original dwelling. Together with the largely contemporary fenestration design, the extension is/would be a significantly discordant feature which causes harm to the character and appearance of the property and surrounding area.
11. For these reasons the development as built and proposed, is contrary to policies 28S, 29 and 30 of the Bedford Borough Local Plan 2030 Planning for the future (Local Plan) which together require high quality design and development to contribute positively to the areas character and identity.

12. It also conflicts with the Council's design guidance contained in the RENSID¹¹ which advises that in most cases it is appropriate for an extension to reflect the basic shape, character and scale of the original building, and its detailed character in terms of roofscape and window proportions, details and materials.

Living conditions

13. The rear of the properties faces broadly northeast. The pre-existing outrigger would have limited the outlook from the rear windows at 42 St Leonards Street and to some extent daylight to the ground floor windows, with some overshadowing of parts of the adjacent first floor window.
14. However, in my estimation because of the height, depth, and proximity to the shared boundary and rear windows, the extension significantly increases the sense of enclosure and will have an unacceptable overbearing effect upon the outlook from within the house and rear amenity area at No.42. Moreover, the extension will unacceptably reduce the daylight the windows at No.42 receive with some overshadowing of the rear windows and outside amenity space later in the morning. Overall, the effect is such that the living conditions of the occupiers of that property will be significantly harmed.
15. Consequently, the extension fails to accord with the aims of the National Planning Policy Framework (the Framework) which seeks to ensure a high standard of amenity for existing and future users of buildings. It also fails to accord with the RENSID which advises that extensions should not have an overbearing impact on another property because of scale, massing and proximity, and the overall aim to protect daylight and sunlight to neighbouring homes.
16. The Council referred to conflict with Policy 32 of the Local Plan however, that policy relates to disturbance and pollution aspects and does not reasonably relate to this main issue. Accordingly, it weighs neither for nor against the development.

Other Matters

17. That there is no harm to designated heritage assets is a neutral matter. Moreover, since there is no net increase in dwellings and no evidence that the property could not be used as a family dwelling without the extension, this is a matter of negligible weight.

Overall conclusion on Appeal (a) on ground (a) the deemed planning application and Appeal B

18. The development as built and proposed does not accord with policies 28S, 29 and 30 of the Local Plan and is contrary to the development plan when taken as a whole. In this case, there are no material considerations to indicate that the appeals should be determined other than in accordance with the development plan. Appeal A on ground (a) and Appeal B therefore fail and planning permission will not be granted.

Appeal A on ground (f)

19. The appeal on ground (f) is that the requirements of the notice exceed what is necessary. The purposes of an enforcement notice are set out in Section 173 of

¹¹ Residential Extensions, New Dwellings and Small Infill Developments January 2000

the Act and are to remedy the breach of planning control (s173(4)(a) or to remedy injury to amenity (s173(4)(b)).

20. The appellant's case on this ground is that the requirements should be varied such that they have the option of carrying out modifications to the extension so that it complies with a previous planning permission for a single storey rear and side extension and new doors and windows, reference 21/01562/FUL.
21. As the notice requires the extension to be demolished and all resulting waste and materials to be removed, I find its purpose is to remedy the breach of planning control. That purpose could also be achieved by requiring that the development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land. However, any such permission must be extant.
22. Planning permission reference 21/01562/FUL would have expired on 30 September 2024 unless the development was lawfully begun. The permission was for a single storey extension and did not include the entire demolition of the outtrigger, it was a materially different development.
23. It may be that the side elevation of the approved extension would fall on the line of that built, closest to No.42, and part of that wall could be used. However, in the absence of contrary evidence, little of the extension would be usable in that previously permitted. Accordingly, I am unable to conclude that the permission was begun before the deadline for commencement and that it remains capable of implementation.
24. Since the requirements do no more than to seek to achieve the purpose of the notice, they are not excessive. The appeal on ground (f) fails.

Appeal A on ground (g)

25. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant suggested a period of 10 months for the demolition of the extension and 12 months for the removal of the associated materials, this was based on the time for determination of the planning application, subject of Appeal B, and to enable the appellant to raise the necessary funds.
26. Whilst the appellant's concerns are understandable, the purpose of the time period within an enforcement notice is to allow for the physical works associated with the notice to be carried out. I consider the periods of eight and ten months as specified in the notice, is proportionate to the breach of planning control that has occurred. The appeal on ground (g) fails.

Conclusion

27. For the reasons given above, I conclude that Appeal A 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).
28. For the reasons given above Appeal B should be dismissed.

Felicity Thompson INSPECTOR