



Appeal Decisions

Site visit made on 1 July 2025

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2025

Appeal A Ref: APP/A1910/C/23/3326355

Appeal B Ref: APP/A1910/C/23/3326356

2 Bulstrode Close, Chipperfield, Kings Langley, Hertfordshire WD4 9LT

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Mr Benjamin Masters (Appeal A) and Mrs Sarah Masters (Appeal B) against an enforcement notice issued by Dacorum Borough Council.
 - The notice was issued on 20 June 2023.
 - The breach of planning control as alleged in the notice is without planning permission, unauthorised insertion of a window on the first-floor side elevation (western elevation).
 - The requirements of the notice are: 1. Replace the clear glazed window on the first-floor western elevation with a window that is obscure glazed and non-opening to 1.7 metre from the finished floor level of the first floor.
 - The period for compliance with the requirements is six weeks.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 (as amended). Since the prescribed fees have not been paid within the specified period, the appeals on ground (a) and the applications for planning permission deemed to have been made under section 177(5) of the Act have lapsed.
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Decisions

1. The appeals are dismissed and the enforcement notice is upheld.

Preliminary Matters

2. There is no deemed planning application arising from an appeal made on ground (a) and the relevant fee has not been paid. Therefore, planning merits considerations are not before me in these appeals. Nor can matters relating to the lead up to the issuing of the enforcement notice form part of my deliberations.

Ground (c) appeals

3. The appeal site contains a detached two storey dwelling. The enforcement notice attacks a new casement window inserted in the west side elevation of the dwelling, at first floor level.
4. By making ground (c) appeals, the appellants are claiming that the new window does not constitute a breach of planning control. The burden is firmly on the appellants to show why their appeals on this ground should succeed, the relevant test of the evidence being on the balance of probability.
5. Inserting the new window involved the carrying out of building operations, falling within the definition of development set out in s55(1) of the Act. Planning permission is required for the carrying out of any development of land, having regard to s57(1) of the Act.

6. The new window is not granted planning permission by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) at Article 3, Schedule 2, Part 1, Class A. Paragraph A.3 of Class A requires any window inserted in a dwelling in the side elevation above ground floor level to be fitted with obscure glazing and be non-opening less than 1.7 metres above the floor level of the room in which the window is situated. The new window is fitted with clear glazing, albeit with an opaque film applied to the inner side. Also, the new window includes an opening side hung light.
7. Planning permission was granted to erect two storey extensions to the front of the dwelling, in March 2022.¹ In *Slough Estates v Slough BC* [1969] 21 P&CR 573 it was held that where the application and drawings are incorporated in a planning permission and there is something which is not clear, those documents may be used as aids to interpretation. *Barnett v SSCLG & East Hants BC* [2008] EWHC 1601 (Admin); EWCA Civ 476 confirms that on its face, a full planning permission for building operations is not a complete and self-contained description of the development that has been permitted. Any reader of such a decision notice will realise that it is incomplete, indeed useless, without the approved drawings. Other case law referenced by the main parties does not alter these principles.
8. The planning permission decision notice only refers to the two storey extensions. There is no mention of inserting a first-floor window in the west elevation. Even so, following *Slough* and *Barnett* that of itself is not conclusive as the approved drawings are incorporated into the permission, being listed in condition No 2. In this respect therefore it is also necessary to examine the approved drawings.
9. The list of approved drawings in condition No 2 includes No BCCE/04B, which depicts the proposed first floor layout of the extended dwelling. Amongst other things, this shows a window in the west elevation at first floor level in a similar position to the new window. However, I highly doubt that this drawing incorporates the new window into the permission. The drawing shows a narrower, one-light window. The new window is considerably larger, being a wider, two-light window. Moreover, the list of approved drawings includes No BCCE/05D, which depicts the proposed elevations of the extended dwelling. This drawing does not show any first-floor window opening in the west elevation of the extended dwelling. Therefore, the new window deviates materially from what is shown on the approved drawings.
10. By carrying out development other than in accordance with the approved drawings, condition No 2 of the planning permission has not been complied with. The definition of a breach of planning control in s171A(1) of the Act includes carrying out development without the required planning permission or failing to comply with any condition or limitation subject to which planning permission has been granted.
11. Although the new window might well be required to light a room following erection of the permitted extensions, this makes little difference in relation to whether the development complies with condition No 2. Planning permission was granted in May 2024 to vary condition No 2 of the permission, subject to conditions including No 3 which requires the new window to be non-opening and fitted with obscure glass.² As the more recent permission has yet to be implemented however it can have little bearing in relation to these appeals.

¹ Council Ref: 21/03941/FHA

² 24/00753/ROC

12. Since the appellants have been unable to show to the required standard that insertion of the new window does not constitute a breach of planning control, the ground (c) appeals fail.

Conclusions

13. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice.

Stephen Hawkins

INSPECTOR