



Appeal Decision

Site visit made on 7 October 2025

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th October 2025

Appeal Ref: APP/P2365/C/23/3331560

3 Sunnyside, Aughton, Ormskirk L39 6RL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("The Act").
 - The appeal is made by Mrs Margaret Cavadino against an enforcement notice issued by West Lancashire Borough Council.
 - The notice was issued on 6 September 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the erection to the rear of the property known as No.3 Sunnyside ('the original property') situated within the Land of a part two-storey/part single storey extension building ('the Extension').
 - The requirements of the notice are:
 - (i) To demolish the extension.
 - (ii) Remove from the Land all materials arising from and as a result of the demolition of the extension.
 - (iii) Following the demolition of the extension reinstate the rear wall of the original property including the pre-existing openings as shown on the photograph attached to the notice dated 04/10/2022.
 - The period for compliance with the requirements is: 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Act. 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. It is directed that the enforcement notice is varied by deleting "3 months" and substituting "6 months" for the time compliance.
2. Subject to the variation, 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.

The appeal on ground (a) and the deemed planning application (DPA)

Main Issues

3. The main issues are (i) the effect of the development on the character and appearance of the host property and surrounding area; and (ii) the effect on the living conditions of neighbouring occupants with regard to outlook, and loss of light.

Reasons

4. The appeal site is in the settlement boundary of Aughton. It relates to a two-storey mid-terraced property within a predominantly residential area which is characterised by mostly two-storey dwellings of varying design, form, age and materials to the north, east and west. To the south are vast amounts of open fields, and a public footpath runs alongside the fields. Several properties have also

been extended but those additions appear to be subservient and/or in proportional context to the property type and age. Despite some variation in form, and appearance the residential properties in the immediate area present a discrete arrangement that contributes towards the local character and appearance of the area.

5. The West Lancashire Design Guide SPD, 2008 (SPD) aims to guide good design in the Borough, including amongst other developments, house extensions. At Part 3, it guides that new development should always aim to enhance the visual composition of the street scene and not detract. Extensions should be designed to be subservient in size, scale and mass to the original dwelling and never dominate or be disproportionate to the existing property, appear discordant in location, appearance or materials. It further sets out at (vi) that it is important that rear extensions have a size, scale, form and external appearance, which do not compromise the existing architectural style or character.
6. The development has unduly altered the rear of the row of terrace properties. Despite it not being visible from Sunnyside or Middlewood Road, it is clearly discernible in views for a considerable amount of distance from the footpath which runs from north to south along the fields. The existence of the outbuilding at No.1 Sunnyside (No.1) or boundary treatments do not prevent these views, as such the development has resulted in a visually obtrusive addition within the public realm.
7. The size, scale and design of the extension appear incongruous, bulky and overpowers the rear elevation of the host property and wider terrace row to an unacceptable degree. This is further exacerbated by the massing, and the combination of the flat roof at first floor and a mono-pitch roof at ground floor with an excessively large protruding roof window. The stark render which has been added since the notice, does little to assist with the excessive scale or blending in. Therefore, the development impacts negatively on the character and appearance of the host building and wider area.
8. I acknowledge that No.1 has a rear balcony, although not necessarily in keeping with the character and appearance of the row of terraces. However, it is rather discrete, due to it being utilised from an existing single storey extension with glazed elements when compared to the bulkiness and scale of the development. Moreover, the existence of the balcony does not set a precedent for further harmful development or justify allowing the extension.
9. For the reasons given above, I conclude the development has caused unacceptable harm to the character and appearance of the host property and surrounding area. It does not accord with Policy GN3 of the West Lancashire Local Plan 2012-2027 DPD, 2013 (LP). This policy requires amongst other matters, development to be of high-quality design and have regard to the SPD; development should have appropriate siting, orientation, scale, materials where appropriate. It is further at odds with the SPD, as already set out above.

Living Conditions

10. Despite there being no overlooking or privacy issues from windows and openings in the extension to neighbouring properties, due to the position of windows in the extension and that there were existing windows and openings previously in the rear elevation. The excessive projection at both ground floor and first-floor, the height, width and massing of the extension with limited gaps between the shared

common boundaries appears unduly dominant and overbearing to neighbouring occupants. This would be when viewed from both the ground floor windows and first floor openings of those properties at No.1 and No.5 Sunnyside. Furthermore, given the proximity of ground floor openings relative to the side gables of the extension, this has likely resulted in some loss of light to habitable rooms and gardens of No.1 and No.5, particularly due to the height and projection, despite the boundary treatments being in situ.

11. The appellant seeks to rely on the SPD guidance that the first-floor extension does not project more than 3 metres (m) and the single storey extension along the common boundary does not project more than 4m. The Council say that the projection is some 4.35m in depth at ground floor having been measured from the existing rear elevation. This is disputed by the appellant with measurements set out to be some 3.75m at ground floor and 2.4m at first floor.
12. Nevertheless, there is no plans provided or accurately scaled photographs that show the appellants calculations to be true. Furthermore, the SPD states that this is a general rule, and the larger the extension and the closer to neighbour's property the greater its effect will be, and each case and impact will be different. Moreover, Appendix F in the appellant's statement of case identifies in the photograph a distinct overshadowing of No.1 incorporating the ground floor window and that outlook on to the side gable from the first floor and balcony would be overbearing. It could, therefore, not be considered that the impacts to neighbouring occupants living conditions would be negligible.
13. For the reasons given above, I conclude the development has caused unacceptable harm to the living conditions of neighbouring occupants, with regard to outlook and loss of light. It does not accord with Policy GN3 of the West Lancashire Local Plan 2012-2027 (LP) relating to amenity, and the SPD which provides amongst other matters, guidance at Part 3 (v) of consideration to be given on neighbour amenity.

Other matters

14. I have had due regard to Article 8 of the Human Rights Act 1998 (HRA), and I am aware that the Article 8 rights of a child should be viewed in the context of Article 3(1) of the United Convention on the Rights of the Child. I am mindful that the family's individual rights for respect for private and family life (along with the best interests of the children, are primary considerations), which must be weighed against other factors including the wider public interest and legitimate interests of other individuals. The concept of proportionality is key.
15. I have also had regard to the Public Sector Equality Duty (PSED) under the Equality Act 2010. The persons who intend to occupy the property have protected characteristics for the purposes of the PSED. Since there is potential for the decision to affect persons with protected characteristics, I have had due regard to the three equality principles set out in this Act.
16. The appellant has set out their individual circumstances relating to the need for the extension. This includes that the development has led to greater ground floor space and 5 bedrooms being created. The circumstances set out that the appellant's daughter resides at the property with her 4 children, and the existing layout did not provide sufficient space to enable the family to all stay together at the property. Two documents were provided, Appendix A, an NHS letter for Child

A, dated 25 January 2024 relating to an appointment and Appendix B, an NHS letter referring to an assessment taking place in November 2023.

17. However, the evidence advanced by the appellant does not demonstrate that there is a need for larger accommodation, or that other options were fully explored. The evidence is further ambiguous on who lives at the property, the number and/or ages of whether these are younger children or are now adult children with independence. Moreover, the appellant has suggested an alternative scheme.
18. Therefore, after having regard to the material considerations, I am satisfied that the aim of avoiding unacceptable harm to the character and appearance of the area and the living conditions of neighbouring occupiers can only be adequately addressed by dismissal of the appeal. They do not outweigh the harm identified and the conflict with the development plan. Any interference with the human rights of the appellant, their family and occupants of the property is therefore necessary and proportionate.
19. I note that residents have expressed additional concerns about the development, including construction works, building control, party walls and property damage, fire prevention and escape. However, given my findings in relation to the main issues, it is not necessary to consider these matters in detail. Nonetheless, mostly these concerns are civil matters outside my jurisdiction in this appeal.

Whether planning permission should be granted for any part of the matters stated in the notice / the alternative scheme

20. The appeal on ground (a) sought planning permission for the matters stated in the notice as the breach of planning control, that being the development which has actually been built. Section 177(1)(a) of the Act enables me to grant planning permission for the whole or any part of the matters stated in the notice. The appellant contends in relation to their ground (f) appeal that any injury to amenity would be overcome by modifying the development. I shall consider whether permission should be granted for such a modified scheme under ground (a).
21. The appellant suggests that a proposed alternative is to remove the first-floor element of the extension and create a hipped roof. This would result in a similar scale to the previous conservatory. However, I have not been presented with any detailed alternative scheme including plans that show how the development could be modified, meet limitations in the GPDO¹ or whether it would be feasible and less harmful.
22. Furthermore, there is limited evidence pertaining to a conservatory, whether this was permitted development and measurements are stated to be approximately. However, it does appear that this was removed sometime before November 2022 when Council officers visited the site and works for the unauthorised development had commenced. The photograph which accompanies the notice is dated 4 October 2022 is devoid of any conservatory. In any case, the previous existence of a conservatory does not justify a harmful extension
23. Consequently, and in view of the nature and extent of the work that might be required to the extension, the variations that would follow from the appellant's

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

arguments would cause the notice to be imprecise. Therefore, it has not been demonstrated the alternative scheme form 'part of the matters' stated in the notice.

24. In addition, the two parts of the extension form one entity and do not appear as being severable. As they are, described by the appellant, the reductions and alterations to the scale, height, projection and appearance would not overcome the harm to the character and appearance of the host property or surrounding area.
25. I accept that there are other examples of extensions within the wider area of the appeal site, however these are not as visible so the alternative could still appear as an incongruous development at the rear, which is open and clearly visible in the public realm from the public footpath.

Conclusion

26. I have found the development to be causing harm to the character and appearance of the host property and surrounding area. The alternatives advanced by the appellant have not been demonstrated to constitute part of the matters stated in the notice and do not alter my findings in this regard and therefore does not warrant a grant of planning permission.
27. Therefore, for the reasons given above, I conclude that the appeal under ground (a) should fail and that planning permission should be refused in respect of the DPA in full.

The appeal on ground (f)

28. This ground of appeal is that the steps required to be taken by the notice exceed what is necessary to achieve its purpose. The purposes of an enforcement notice are set out in section 173 of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)). Since the notice requires the removal of the extension and reinstatement of the rear wall to its former appearance, the purpose is clearly to fully remedy the breach. Leaving any part of it in place would not achieve that purpose. Consequently, the notice's requirements at Section 5 cannot be excessive.
29. The appellant's case on ground (f) amounts to an alternative scheme to the unauthorised extension. I have dealt with this as part of my consideration of the ground (a) appeal, having set out why this would be unacceptable. Nevertheless, the appellant has not provided sufficient evidence, to show that any lesser steps would not result in an acceptable form of development. Consequently, the appellant has not produced evidence that the notice's requirements exceed what is necessary to remedy the breach.
30. For the above reasons, I conclude that the ground (f) appeal fails.

The appeal on ground (g)

31. The appeal under ground (g) is made on the basis that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed. The notice requires compliance within 3 months of it coming into effect.
32. The appellant seeks a period of 9-12 months to comply with the notice. This is stated to be in the context that 3 months is too short to organise the removal of the

extension in its entirety, given substantial work both internally and externally would be required, and there would be considerable impacts on the family.

33. It would appear from the appellants submissions that they are seeking to find an alternative solution to removing, in its entirety. The Council considers that 3 months is a reasonable timeframe for the extension to be dismantled, removed from the site and the rear elevation to be re-instated. I am mindful of my duties under the HRA and PSED and balanced against this concerns raised by neighbouring occupants. Therefore, I consider a more reasonable and proportionate compliance period would be 6 months.
34. This would enable the appellant to discuss further, assist with the impact on the family and seek the necessary planning permission if required from the Council in respect of the separation of the extension to form a single storey extension. Therefore, I shall vary the enforcement notice accordingly prior to upholding it.
35. I conclude, the appeal on ground (g) succeeds to that extent.

Conclusion

36. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act as amended.

KA Taylor

INSPECTOR