



Appeal Decision

Site visit made on 25 February 2026

by **AJ Steen BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 March 2026

Appeal Ref: APP/J2210/C/23/3334788

Land at 118 Clare Road, Whitstable, Kent CT5 2EH

- 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 Rebecca Cockerton against an enforcement notice issued by Canterbury City Council.
- The notice was issued on 9 November 2023.
- The breach of planning control as alleged in the notice is without planning permission the erection of a three storey rear extension and dormer windows on both sides of the dual pitched roof.
- The requirements of the notice are to:
 1. Demolish the dormer windows on the roof and make good the roof
 2. Remove all resultant materials and debris associated with Step 1 from the land.
- The period for compliance with the requirements is: 3 months.
- The appeal is proceeding on the ground[s] set out in section 174(2)(a), (c), (g) of the Town and Country Planning Act 1990 (as amended). 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.

Summary Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary Matters

1. I understand that planning permission was approved for a two storey and single storey rear extension under reference CA/20/01291 that was varied under reference CA/21/00522. A further variation was sought for amendments to that proposed development, including provision of 2 dormers to the roof, but that was refused under reference CA/21/02672. An appeal, reference APP/J2210/D/22/3312451, was submitted for that development that the Council indicate was dismissed on a technicality and I will refer to again in other matters. I have not been provided with plans in relation to these applications.
2. I note that the allegation in the description of the breach of planning control refers to erection of a three storey extension as well as provision of dormer windows. The requirements seek only the removal of the dormer windows. Section 173(11) of the Act states that where an enforcement notice could have required any buildings or works to be removed but does not do so and all the requirements have been complied with, then planning permission should be treated as having been given. These were matters to be considered when the Council determined whether it was expedient to take enforcement action. I will take that into account in coming to my decision. Nevertheless, I am aware that if I were to grant planning permission as a result of the appeal on ground (a) and under section 177(5) of the Act, I would do so for the whole of the development described in the breach of planning control.

The Appeal on Ground (c)

3. An appeal on this ground is that “those matters” (the matters stated in the alleged breach of planning control) do not constitute a breach of planning control. The burden of proof for this ground is on the appellant, with the relevant test of the evidence being on the balance of probability.
4. There is no dispute that the three storey extension, including dormer windows, constitute development within the meaning of Section 55 of the Act for which planning permission is required. No planning permission has been granted by the Council for the three storey extension.
5. The appellant suggests that the dormer windows have been granted planning permission by virtue of compliance with Class B, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).
6. I have briefly set out the history of the development in my preliminary matters. It appears that the dormer windows were constructed as part of the three storey extension. The planning permission granted under Class B, Part 1, Schedule 2 of the GPDO relates only to roof extensions and would not permit the remainder of the extension of which the dormers form part.
7. Since no planning permission has been granted for the development it thereby constitutes a breach of planning control.
8. For these reasons, I conclude that the appeal under ground (c) should fail.

The Appeal on Ground (a) and the Deemed Planning Application

Main issues

9. I consider the main issues to be:
 - The effect of the three storey extension on the character and appearance of the existing building and surrounding area; and
 - The effect of the extension on the living conditions of neighbouring occupiers of 116 and 120 Clare Road with particular regard to privacy and light.

Reasons

Character and appearance

10. The houses around 118 Clare Road are predominantly Victorian terraced houses, constructed in brick. No. 118 is a more modern detached dwelling with a gable ended roof facing the road between two of those terraces, such that it contrasts with surrounding development. The three storey extension is modern in appearance, with timber and metal cladding and located to the rear of the dwelling. To the rear of the houses is what appears to be a former railway line with path and vehicular access.
11. The extension has a modern character and appearance that differs from the front elevation of the building and contrasts with the surrounding terraces. It has limited effect on the street scene given its location to the rear of the building. I consider that this is an appropriate style in this situation, contributing diversity to the appearance of the area, particularly in views from the rear.

12. The dormer windows are to the sides of the building and toward the rear of the roof. Their location means that views of them are blocked by the neighbouring houses in views from the road, other than from directly in front. This means they are modest and have little effect on the visual appearance of the building or area when viewed from Clare Road.
13. From the rear the dormers are more visible. Nevertheless, they are not prominent and do not dominate the building. Their style and materials reflect the character and appearance of the modern rear extension. There are large box dormers on some of the other dwellings along the road. As a result, they do not harm the visual appearance of the building or area in views from the rear.
14. For these reasons, I conclude that the dormer windows do not materially affect the character or appearance of the surrounding area. They accord with Policies DBE3 and DBE6 of the Canterbury District Local Plan (LP) that seek to protect and enhance the distinctive character, diversity and quality of the district through high quality design, including considering the visual impact on local townscape character and the skyline.

Living conditions

15. Most of the terraced houses in Clare Road have two storey outrigger projections at the rear. The outrigger at no. 116 is away from the boundary, with a modest gap between the extension and that outrigger. That at no. 120 is close to the boundary with no. 118. The rear of the extension does not extend materially beyond the furthest rear wall of either neighbouring house. However, this does mean that there are rear facing windows in no. 116 forward of the extension and outside space in this area.
16. In terms of privacy, the large dormer to the side of the building closest to no. 120 does not contain any windows. The smaller dormer to the side closest to no. 116 does contain a window. It is relatively narrow and at a different height to the windows on the rear of no. 116 and at right angles to them. Views of the garden at no. 116 would be oblique. As such, there would be no material overlooking of that neighbouring property, such that it would not unacceptably affect the privacy of occupiers of the dwelling.
17. The side of the rear elevation of the extension closest to no. 116 is angled such that it partially faces over the neighbouring garden. There are windows in the first and second floor within that elevation. The angle of the wall is such that the view from these windows would not lead to materially greater overlooking than had it not been at an angle. If the extension were two storey, as had been granted planning permission under reference CA/21/00522, overlooking would likely be reduced from the current situation, but not materially.
18. The additional scale arising from the dormer windows may lead to some additional overshadowing of the garden of no. 116. However, taking account of the size of the dormer windows, any increase in overshadowing over what would have occurred had the permitted extension been constructed would not have been likely to be material.
19. For these reasons, I conclude that there is not unacceptable harm to the living conditions of neighbouring occupiers of 116 and 120 Clare Road with particular regard to privacy and light. As such, the development does not conflict with

Policies DBE3 and DBE6 of the LP that, in seeking high quality design, consider the living conditions of occupiers of neighbouring buildings including that development should not result in unacceptable loss of privacy or unacceptable overshadowing.

Other matters

20. Appeal decision APP/J2210/D/22/3312451 related to amendments to the drawings approved under reference CA/21/00522. The Inspector determined that it was not possible to amend those drawings in the way proposed as it would not meet the description of a single storey and two storey extension. That is why the Council refer to it having been dismissed on a technicality as set out in my preliminary matters. It is in that context that the Inspector considered whether a three storey extension was not acceptable. They were not able to consider material planning considerations, such as the effect of the development on the living conditions of occupiers of neighbouring properties or on the character and appearance of the area.

Conditions

21. The Council suggest two conditions. These relate to commencement of development and a list of plans. The development has already commenced and I have considered the development based on what has been constructed on site. On that basis, I consider that neither condition would be necessary.

Conclusion

22. For the reasons set out above, I conclude that on balance the development accords with the development plan. The appeal on ground (a) therefore succeeds.
23. As a result, the enforcement notice will be quashed. On that basis, I do not need to consider the appeal on ground (g).

Formal Decision

24. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the erection of a three storey rear extension and dormer windows on both sides of the dual pitched roof at 118 Clare Road, Whitstable, Kent CT5 2EH as shown on the plan attached to the notice.

AJ Steen

INSPECTOR