



Appeal Decisions

Site visit made on 3 October 2023

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2023

Appeal A Ref: APP/L1765/C/22/3307930

Stratton, Highways Road, Compton, Winchester, Hampshire, SO21 2DF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Michael Field against an enforcement notice issued by Winchester City Council.
 - The notice was issued on 1 September 2022.
 - The breach of planning control as alleged in the notice is without planning permission, operational development consisting of the construction of a new roof at an increased height and two storey side, rear and front extensions to the dwelling house known as Stratton.
 - The requirements of the notice are: (i) Demolish the unauthorised operational development (roof and extensions) "the unauthorised operational development". (ii) Upon demolition reinstate the walls and roof of the dwellinghouse to those prior to the carrying out of the unauthorised operational development either (a) as shown in the photos attached as appendix A to the notice or (b) as shown outlined in red in their approximate position shown on the attached plans at appendix B to the notice being those plans submitted with a previous planning application for Stratton; (iii) Remove from the land all materials, rubble, rubbish and debris arising from steps (i) to (ii).
 - The period for compliance with the requirements is twelve months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended. 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 have lapsed.
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Appeal B Ref: APP/L1765/W/22/3307967

Stratton, Highways Road, Compton, Winchester, Hampshire, SO21 2DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Michael Field against the decision of Winchester City Council.
 - The application Ref 22/00932/HOU, dated 3 May 2022, was refused by notice dated 1 September 2022.
 - The development proposed is two storey front, side and rear extensions; alterations and new roof over existing house (amended design following appeal APP/L1765/D/21/3286123).
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Decisions

1. Appeal A-The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.
2. Appeal B-The appeal is dismissed.

Appeal A

Ground (f) appeal

3. The ground of appeal is that the requirements of the enforcement notice are excessive.
4. The appeal site contains a detached dwelling. The dwelling, which is currently vacant-works to the interior being incomplete-has been substantially enlarged including by erecting a new, taller roof as well as two storey side, rear and front extensions. The enlargement works follow planning permission having been granted for erecting two storey front, side and rear extensions to the dwelling together with a new roof over on 30 September 2008.¹
5. The notice requires no less than the demolition of the unauthorised enlargements and reinstatement of the walls and roof of the dwelling as they existed prior to development commencing. Therefore, although the notice does not state as such, its purpose must be to remedy the breach of planning control by restoring the site to its condition prior to the breach taking place. That being the case, any steps that stopped short of demolishing the enlargements would sustain part of the breach and so would not achieve the purpose of the notice.
6. It is also possible to remedy a breach of planning control by making a development comply with the terms, including conditions and limitations, of any planning permission granted in respect of the land. The permission must however be extant and not have subsequently lapsed. The available evidence, including dated photographs supplied by the Council, suggests that development did not commence on the enlargements until after the above permission had expired. In any event, there is no evidence that condition 2, which required approval of the external materials by the Council prior to development commencing, was complied with. Works undertaken in breach of a condition precedent cannot implement a planning permission. As a result, it is not possible to vary the notice to require the enlargements to be altered to comply with the terms of the permission and this does not represent an obvious alternative to the notice requirements.
7. Given the extensive nature of the enlargements, there is limited built fabric remaining in situ from before the unauthorised development. However, by referring to the accompanying photographs and drawings of the original dwelling, the requirements are sufficiently clear and detailed so that the appellant can tell what they must do to comply with the notice.
8. Accordingly, in my view the notice requirements are proportionate, being the minimum steps necessary to remedy the breach, and are not excessive. There is no obvious alternative involving lesser steps to those set out in the notice that would also remedy the breach. The ground (f) appeal fails.

Ground (g) appeal

9. The ground of appeal is that the time for complying with the notice requirements falls short of what should reasonably be allowed.

¹ Council Ref: 08/01823/FUL.

10. I am mindful that the enlargements were constructed over a prolonged period utilising costly materials. Also, I am given to understand that specialist building techniques have been employed. Even so, in my view the twelve-month period specified in the notice takes sufficient account of the likely scale and relative complexity of undertaking the remedial works, as well as the probable timescales involved in securing the services of a suitably experienced building contractor. It also makes sufficient allowance for the likely lead-in times required for the delivery of building materials and for arranging any necessary additional finance. There is little firm evidence of any particular challenges or difficulties that might be involved in undertaking the remedial works within the required timescale. Nor is there any firm evidence of shortages of building contractors or lengthy waiting times before they become available, of continuing delays in obtaining building materials, or of financial institutions having protracted decision-making times in relation to loan applications by homeowners.
11. Given the above factors, in my view the period specified strikes an appropriate balance between affording the appellant a reasonable amount of time to arrange for and to have the remedial works carried out, whilst also providing for the remedying of the breach in a timely manner. Additionally, that period affords ample opportunity for a further planning application to be made to the Council to revert to the approved scheme, should the appellant wish to do so. Extending the period for compliance would therefore do little other than to perpetuate the breach and the planning harm identified in the notice.
12. Accordingly, the compliance period is not too short and is reasonable. The ground (g) appeal also fails.

Appeal B

Main Issue

13. The main issue in this appeal is the effect of the proposal on the character and appearance of the dwelling and the surrounding area.

Reasons

Character and appearance

14. The dwelling is located in a residential street predominantly comprised of two storey detached dwellings with external walls of red/brown brick and dark tiled roofs. For the most part, the street exhibits pleasant if unremarkable suburban visual qualities. From the details provided, it is evident that the dwelling reflected similar characteristics to its surroundings prior to being enlarged.
15. In dismissing the above-referenced appeal, the Inspector remarked that the enlarged dwelling "*...is highly incongruous within the street scene and appears more akin to an aeronautical building in terms of its design, and through the extreme contrast and use of materials, namely the zinc roofing and grey painted render elevations; these are accentuated by the dwelling's forward projection and overall height, giving rise to a building of a scale that is unsympathetic to its surroundings.*" I concur with that assessment.
16. The proposal deletes the raised central section of the roof of the enlarged dwelling and replicates the extended 'wing tips' with a roof overhang at the front in the approved scheme. This would offer some benefit in terms of a

modest reduction in the overall height as well as in the scale and massing of the enlarged dwelling compared to its 'as built' state and in the previous appeal scheme. It would also achieve an appreciably more elegant roof profile. The result would be a roof form with a closer resemblance to the more contemporary architectural approach to enlarging the dwelling expressed in the approved scheme.

17. Nevertheless, the objections identified in the previous appeal clearly relate in part to the overall scale and massing of the enlargements. In that context, the alterations to the roof form would make limited difference to the dwelling compared to its 'as built' state. The enlarged dwelling would be markedly and appreciably taller than would have been the case if the approved scheme had been built out. Although of an overall height comparable with the dwelling next door at 'Fairfield' and to others in the street, the enlargements would be significantly taller in relation to 'Mead Cottage' on the opposite side, than in the approved scheme. Further, the enlargements would have a height to eaves considerably above that in the approved scheme, in which the level of the eaves was not dissimilar to those of the adjoining dwellings. The height to the eaves and overall height would result in the enlarged dwelling having a substantial scale and massing. This would be given further emphasis by its forward projection together with the zinc roof, with the result that the enlarged dwelling would not sit comfortably in relation to the appreciably more modest proportions and traditional character and external materials of the adjoining dwellings. Therefore, the enlarged dwelling would not respond positively to the character and appearance of the dwelling or the surroundings and it would appear as an incongruous feature in the street scene.
18. It is also proposed to replicate other design details from the approved scheme, including by incorporating central louvers and a roof overhang at the front of the enlarged dwelling. This would provide further articulation to the front elevation and would create greater visual interest in public views compared to the enlargements 'as built' and the previous appeal scheme. Be that as it may, doing so would have a limited impact in terms of offsetting the scale and massing of the enlarged dwelling and its visually unsatisfactory relationship with the adjoining dwellings and the surroundings in general. Although using a buff-coloured render on the external walls would better integrate with the palette of more traditional building materials in the locality it would not sufficiently ameliorate the visual harm identified above, nor would introducing landscaping in the form of a pleached hedge along the eastern site boundary.
19. Therefore, the proposal would cause unacceptable harm to the character and appearance of the dwelling and its surroundings, in conflict with Policies CP13, DS1 and MTRA3 of the Winchester District Local Plan (LP) Part 1 and Policies DM15 and DM16 of the LP Part 2, which together require new developments to meet the highest standards of design, to respect the qualities, features and characteristics that contribute to the distinctiveness of the local area, including matters of scale and layout, whilst using high quality materials that are attractive and durable and appropriate to the context. Also, the proposal is inconsistent with the Council's High Quality Spaces Supplementary Planning Document which, amongst other things, stresses the importance of new development being sensitively related to the scale and massing of neighbouring development.

20. Furthermore, the proposal is inconsistent with the revised National Planning Policy Framework which in paragraph 126 seeks the creation of high quality, beautiful and sustainable buildings with good design being a key aspect of sustainable development, as well as paragraph 130, which requires developments to be visually attractive and sympathetic to local character. Additionally, the adverse impact of the proposal on the character of the area does not pay sufficient regard to advice in the Compton & Shawford Village Design Statement.

Conclusions

21. Appeal A-For the reasons given above I conclude that the appeal should not succeed.
22. Appeal B-The proposal would harm the character and appearance of the area and there is conflict with the Development Plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the Development Plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Stephen Hawkins

INSPECTOR