



Appeal Decisions

Site visit made on 18 September 2018

by **Stephen Brown MA(Cantab) DipArch RIBA**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 October 2018

Appeal A: ref. APP/V2255/C/17/3184494 **43 Hugh Price Close, Sittingbourne ME10 3AS**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is by Philip Harty against an enforcement notice issued by Swale Borough Council.
 - The enforcement notice, ref. 18/500067/ENF, was issued on 11 August 2017.
 - The breach of planning control alleged in the notice is without planning permission the construction of a conservatory and fencing the approximate positions of which are highlighted on the plan attached to the notice, which in the opinion of the Council would require planning permission.
 - The requirements of the notice are to:
 - (i) Demolish the conservatory.
 - (ii) Remove the fencing.
 - (iii) Remove any materials or debris etc. from the land, caused in complying with the requirements (i) and (ii) above.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. The case is exempt from the prescribed fees, and the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended fall to be considered.
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Appeal B: ref. APP/V2255/W/17/3201370 **43 Hugh Price Close, Sittingbourne ME10 3AS**

- 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 by Philip Harty against the decision of Swale Borough Council.
 - The application ref. 17/500498/FUL, dated 22 January 2017, was refused by notice dated 30 June 2017.
 - The development proposed is to fit a 2.2 metre by 3 metre conservatory to the front of the dwelling, and to fit a 6 feet high fence comprising 3 feet high panels and 3 feet high trellis to the front of the property.
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Decisions

Appeal A: ref. APP/V2255/C/17/3184494

1. 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.

Appeal B: ref. APP/V2255/W/17/3201370

2. The appeal is dismissed.
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Preliminary matters

3. The appellant's planning application is for retention of development already carried out – namely, the conservatory and fence subject of the enforcement appeal. I have therefore dealt with the ground (a) appeal and the s.78 appeal together.
4. The appellant's enforcement appeal application form indicated that he might be appealing on all six available grounds. The Inspectorate wrote to the appellant towards the end of April 2018 to state that the case would be treated as a ground (a) appeal, but no response was received. However, it is apparent from the arguments presented in the enforcement appeal application that a ground (a) appeal is intended. No arguments are presented that would substantiate any other grounds. I have therefore determined the enforcement case on ground (a). I do not consider any party suffers any substantial prejudice as a result of this approach.

Background matters

5. Hugh Price Close is a relatively recent development of detached, semi-detached, and short terraces of two-storey houses. The houses are interspersed with pedestrian routes, parking bays, and attractive landscaped areas densely planted with trees, shrubs, and ground cover. The appeal property stands at the end of a short terrace comprising 2 houses built side-by-side, with 2 further houses – nos. 42 and 43 – effectively built back-to-back at the north-western end. The flank of the appeal property – no. 43 – faces onto the footway running along the length of the terrace. The conservatory and fence subject of this appeal are on this flank of the property.

The enforcement appeal on ground (a), the deemed planning application, and the s.78 planning appeal

6. Ground (a) is that planning permission should be granted for the development alleged in the notice. In that regard, and in regard to the s.78 appeal, I consider the main issue to be the effect of the development on the character and appearance of the appeal site and the area in its vicinity.
7. The conservatory and fence are very much as described in the planning application. The conservatory is slightly higher than the fence – I estimate about 2 metres high to the eaves – and the face of the conservatory stands about 0.75 of a metre back from the fence.
8. The house and terrace as a whole are built of red brick with concrete tiled roofs, white painted windows, and a painted rendered upper floor. The roofs of the main building and projecting entrance porches are of quite complex form with hipped gables. Other houses in the area are built of similar materials but of differing colours, and varying patterns of roof forms and porches.
9. Overall, the informal layout of the estate, the interesting and varied forms of the buildings, the maturing landscaped areas, and generally uncluttered frontages to the houses give the area an attractive open quality.
10. The conservatory and surrounding fencing protrude from the flank of the house within the frontage of the terraces where there are otherwise small areas of lawn, paved hardstandings, and patches of shrub planting. Immediately to the north-west of no. 42 is an attractive stand of trees, shrubs and vegetation. In

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this context the development appears cramped and intrusive, and as an incongruous addition to the house, in terms of the form and materials.

11. I conclude on the main issue that the development causes significant harm to the character and appearance of the appeal site, and the area in its vicinity. The development does not accord with the aims of the development plan, notably with respect to Policies CP4, DM14, and DM16 of the Swale Borough Local Plan adopted in July 2017. These policies include aims to achieve development of high quality design, to be of a scale, design, appearance and detail that is sympathetic and appropriate to its location, and for extensions that are of appropriate design and quality, responding positively to the style and character of the host building.
12. I appreciate the appellant wishes to provide more space for his family on what is a limited site. However, in my experience there would be several ways in which this could be done, and it is not necessary to cause harm to the street scene and surroundings to achieve this.

Conclusions

13. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should not succeed. I shall uphold the enforcement notice, refuse to grant planning permission on the deemed application, and dismiss the s.78 planning appeal.

Stephen Brown

INSPECTOR