



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 14/09/20

gan **Richard E. Jenkins, BA (Hons) MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 6th November 2020

Appeal Decision

Site visit made on 14/09/20

by **Richard E. Jenkins, BA (Hons) MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 6th November 2020

Appeal A - Ref: APP/B6855/C/20/3255073

Site address: Land at 1 Malvern Terrace, Brynmill, Swansea, SA2 0BE

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- 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 made by Mr D Jones of Singleton Park Developments Ltd. against an enforcement notice issued by City and County of Swansea Council.
- The enforcement notice, numbered ENF2020/0008, was issued on 1 June 2020.
- The breach of planning control as alleged in the notice is without planning permission, the erection of unauthorised extensions to a dormer roof window on the rear roof plane.
- The requirements of the notice are to: (i) Remove the unauthorised extensions to the dormer window from the rear roof plane and restore the roof plane to its former condition; (ii) Remove from the premises any waste arising from actions resulting from Requirement (i) above.
- The period for compliance with the requirements is three months beginning with the day on which the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Appeal B - Ref: APP/B6855/A/20/3255072

Site address: 1 Malvern Terrace, Brynmill, Swansea, SA2 0BE

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- 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 Singleton Park Developments Ltd against the decision of City and County of Swansea Council.
- The application Ref: 2020/0225/FUL dated 5 February 2020, was refused by notice dated 13 May 2020.
- The development proposed is retention and completion of rear roof extension.

Decision

Appeal A - Ref: APP/B6855/C/20/3255073

1. The appeal is allowed under ground (g) only. It is directed that the enforcement notice be varied by the deletion of the words "*Three months beginning with the day on which this notice takes effect*" from Section 6 and their substitution with the following: "*Six months beginning with the day on which this notice takes effect*". Subject to that variation, the enforcement notice is upheld and planning permission refused on the

application deemed to have been made under section 177(5) of the 1990 Act, as amended.

Appeal B - Ref: APP/B6855/A/20/3255072

2. The appeal is dismissed.

Procedural Matters

3. As set out above, there are two appeals at the appeal site. Whilst I shall consider each scheme on its own particular merits, to avoid any duplication, I shall deal with the two schemes together in this document, albeit with separate formal decisions.
4. Appeal A relates to the Council's decision to issue an enforcement notice in respect of the unauthorised extensions to a dormer roof window on the rear roof plane. That appeal is proceeding under the grounds set out in Section 174(2)(a) and (g). Given that an appeal under ground (a) is that planning permission should be granted for what is alleged in the notice, my consideration of this appeal shall be in respect of the development found on site at the time the enforcement notice was issued.
5. I have taken the description of development in respect of Appeal B from the Council's Notice of Decision. As this is consistent with that outlined on the Appeal Form, I am satisfied that there is no prejudice in this respect. During the processing of the planning application associated with this appeal, revised plans were submitted which proposed to reduce the scale of the various elements of the scheme. The Council determined the application based on the amended plans and I shall consider the appeal on that same basis.

Reasons

Appeal A - Ref: APP/B6855/C/20/3255073

The Appeal under Ground (a) – The Deemed Planning Application

6. Having regard to the Council's reasons for issuing the enforcement notice, I consider the main issue in respect of the ground (a) appeal to be the effect of the proposed development upon the character and appearance of the area.
7. I was able to observe at the time of my site visit that, by reason of its scale, siting, form and overall design, the unauthorised roof extension represents an overly prominent and insensitive form of development that appears as an incongruous and disproportionate addition to the roof plane. Such concerns are not justified by the presence of the pre-existing dormer addition which is of a much smaller scale. Its siting to the rear of the appeal property also fails to weigh heavily in favour of the proposal, not least because of its prominent siting on an end of terrace property.
8. I have considered the arguments raised through the appellant's submissions, including the alleged cosmetic improvements relating to the retiling of the roof and the wider use of materials. I also note the internal benefits offered by the development. However, the identified public harm is not outweighed by such matters and, given that the property cannot benefit from permitted development rights in respect of such a development, I do not consider such comparisons to significantly assist the appellant's case. The other dormer additions within the area have not in my view fundamentally altered the character of the area and do not, therefore, justify the identified harm.
9. I therefore find that the as-built dormer extension causes material harm to the character and appearance of the host property and surrounding area. It follows that

the development runs counter to the aims of Policy PS2 of the adopted Swansea Local Development Plan (2019) (LDP), as well as the placemaking principles that underpin national planning policy. The development also conflicts with the general thrust of the advice set out in the Supplementary Planning Guidance (SPG) documents referred by the appellant. For these reasons, and having considered all matters raised, I conclude that the appeal under ground (a) should fail.

The Appeal under Ground (g)

10. The appeal under ground (g) is that the time given to comply with the requirements of the enforcement notice is too short. The appellant's grounds in this respect turn on the fact that the property is tenanted as a 9 No. bedroom House in Multiple Occupation (HMO), with tenancy agreements submitted to support the appellant's case.
11. I have sympathy with the LPA's case in respect of the ground (g) appeal given that the property was not occupied at the time the enforcement notice was issued. Nevertheless, the evidence indicates that the property is now occupied and I have no doubt that compliance with the requirements of the enforcement notice would, at the very least, represent a significant inconvenience to the tenants.
12. The appellant contends that a 6 month period for compliance would be reasonable and, bearing in mind the potential disruption to tenants, I accept that this would be a reasonable and pragmatic period for the appellant to commission the necessary works. Indeed, it would provide the appellant with an opportunity to provide advanced warning of any works and would also provide added flexibility given the ongoing COVID-19 pandemic. I am therefore satisfied that a 6 month period would strike an appropriate balance between the competing interests.
13. I shall therefore vary the enforcement notice by substituting the compliance period at Section 6 with the following words: "*Six months beginning with the day on which this notice takes effect*". To this limited extent, the appeal under ground (g) shall succeed.

Appeal B - Ref: APP/B6855/A/20/3255072

14. Notwithstanding the development in situ, Appeal B seeks planning permission for roof extensions that would extend in a horizontal arrangement relative to the existing central dormer extension which was granted planning permission under Ref: 94/1279. As with the above ground (a) appeal, the main issue in this case is the effect of the proposed development upon the character and appearance of the area.
15. It is material to note the fact that the proposed dormer extensions would be set up from the eaves, down from the ridge and in from the side elevations of the appeal property. Nevertheless, I share the Council's concerns that the resulting roof additions would represent an unsympathetic form of development that would unacceptably dominate the rear roof plane. I recognise the fact that the central element represents a lawful structure and note the appellant's contention that, when considered in isolation, the proposed dormers would be compliant with the advice set out the Council's SPG. However, the proposed extensions would not be seen in isolation. Indeed, there is little doubt in my mind that the collective scale, siting, form and overall design of the resulting roof additions would result in an incongruous form of development that would cause material harm to the character and appearance of the host property and surrounding area.
16. As with the assessment set out under Appeal A, I am not convinced that such harm would be justified by the presence of other dormer extensions within the wider area or

any visual improvements that would arise from the use of new materials. Indeed, the other roof extensions in the area have not fundamentally altered the character of the wider area and do not, therefore, justify the identified harm. The aesthetic improvements in terms of the use of materials would also be negligible and thereby fall short of a significant positive benefit of the scheme. I note the internal benefits that would arise from the proposed roof extension. However, such benefits do not, in my view, outweigh the public harm identified. Again, as with that set out under Appeal A, I do not consider the arguments in respect of permitted development rights to weigh heavily in favour of the development.

17. I therefore find that the proposed development would cause material harm to the character and appearance of the host property and surrounding area. It would therefore conflict with Policy PS2 of the adopted LDP and the placemaking principles of Planning Policy Wales (Edition 10, 2018) (PPW). Such harm and associated policy conflict is not outweighed by the advice set out in the SPG document entitled '*Design Guide for Householder Development*' (2008). For these reasons, and having considered all matters raised, I conclude that the appeal should be dismissed.

Overall Conclusions

18. I have found above that, whilst the appeal under ground (g) of Appeal A should be allowed, the appeal under ground (a) should fail. The success of the appeal is therefore limited and the enforcement notice should be upheld subject to necessary variations. Planning permission should therefore be refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended. For the aforementioned reasons, Appeal B should also be dismissed.
19. In coming to these conclusions, I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and consider that these decisions are in accordance with the sustainable development principle through their contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WBFG Act.

Richard E. Jenkins

INSPECTOR