
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 20/04/15

gan Aidan McCooey BA MSc MRTPI
Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 12/06/2015

Appeal Decision

Site visit made on 20/04/15

by Aidan McCooey BA MSc MRTPI
an Inspector appointed by the Welsh Ministers
Date: 12/06/2015

Appeal Ref: APP/B6855/C/14/2229586

Site address: 30 Courtney Street, Manselton, Swansea, SA5 9NY

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 R N Hughes against an enforcement notice (EN) issued by the City and County of Swansea Council.
 - The Council's reference is ENF14/0012.
 - The notice was issued on 10 November 2014.
 - The breach of planning control as alleged in the notice is without the required planning permission, operational development in the form of the erection of a part single storey, part two storey rear extension and rear balconies.
 - The requirements of the notice are:
 - i Demolish the unauthorised rear extension and balconies.
 - ii Restore the dwellinghouse on the Land to its former condition.
 - iii Remove from the Land all building materials and/or rubble arising from compliance with (i) and (ii) above.
 - The period for compliance with the requirements is 3 months from the date in which the EN takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2) a), f) and g) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. I direct that the enforcement notice be corrected as follows:

- In Section 5 by the deletion of (i) and its replacement with: "Demolish the first floor of the rear extension and provide a roof to the remaining single storey extension in accord with the planning approval ref. 2012/0190";
- by the deletion of Section 5 (ii) and;
- by the renumbering of Section 5 (iii) to (ii) and the deletion of the words "and (ii)".

2. Subject to these corrections, I dismiss the appeal, uphold the enforcement notice and refuse to grant planning permission.

Background

3. The property is in a long terrace of dwellings immediately to the north of a railway line. The rear elevations face south and the ground level is lower at the rear. Several of the adjoining properties have two storey (or 2 ½ storeys) extensions.

The Ground a) Appeal

Main Issue

4. The main issue is effect of the development on the living conditions of neighbouring residents.

Reasons

5. Policy HC7 of the City and County of Swansea Unitary Development Plan (UDP) indicates that proposals for extensions will be assessed against their relationship to the existing dwelling and their impact on adjoining properties. The adopted Supplementary Planning Guidance¹ advises that extensions to terrace properties should be no more than 7.3m long for single storey extensions and no more than 4m long in the case of a two storey extension.
6. The first floor extension is around 5m long. This is in excess of the Council's guidance. There was an appeal in 2013 for the retention of a 4.5m two storey extension, which was dismissed on the grounds of the impact on the bedroom window of no. 31 next door². The conclusions reached were that the proximity and scale of the development had a domineering and overbearing impact that materially compromised the outlook from the bedroom window. I accept that the guidance is advisory and that the south facing aspect means that the overshadowing of the adjoining bedroom window is minimised. I note that there are other extensions of equal or greater depth than the appeal development but this does not alter my conclusions regarding the acceptability of this extension. The appellant has supplied information to the effect that the extension does not breach the 45 degree rule, which is discussed at length in the Supplementary Planning Guidance. However, the calculations are based on the extension to no. 31 being over 3.6m long, when in fact it is 3.2m long according to plans supplied with the objection letter attached to the Council's questionnaire. This being the case means that the extension would not comply with the 45 degree rule.
7. I must consider the extension as built, which is longer than that considered unacceptable by the previous Inspector. I have no reason to differ from the conclusions reached in that appeal. In any event, the amended plans submitted with the appeal show no reduction in the extension. The removal of the wing walls and the balcony at first floor level would ameliorate the impact to some degree. I also note that the appellant's motive for constructing the extension was to meet his family's needs. Neither of these factors outweighs the harm that I have identified.

¹ A Design Guide for Householder Development (June 2008) – Section 3: Extending your Home, paragraph 3.2

² Appeal Ref: APP/B6855/A/13/2202219

8. I find that the first floor extension causes unacceptable harm to the living conditions of the neighbouring residents. This would be contrary to the objectives of policies EV1 and HC7 of the City and County of Swansea Unitary Development Plan, and the Council's Supplementary Planning Guidance. The appeal on ground a) fails.

The appeal on ground f)

9. The Council's evidence was that the EN was served to remedy the breach of planning control and its requirements support that position. Planning permission for a single storey extension of 6m in length was granted in May 2012, which it was accepted remains capable of implementation. The appellant has suggested the implementation of the approved ground floor scheme as an appropriate variation to the steps required by the EN. He makes the point that step (ii) would require the rebuilding of a small two storey extension that previously existed on the site in order to restore the land to its former condition. This is clearly not what was intended and so is best avoided. The Council considered that the steps could be amended to require the ground floor of the extension to be altered to comply with the terms of that planning permission. This suggests that the purpose of the EN was actually to remedy the damage to amenity. I consider that this is a reasonable approach because the ground floor extension is acceptable and accords with Supplementary Planning Guidance and Policy HC7. The minor difference in the length of the extension as built compared to that approved of 227mm is inconsequential. The differences in internal layout and the position of the doors are also of no consequence. I therefore consider that the steps should be changed to require the demolition of the first floor extension only. This again means that former step (ii) of the EN is no longer necessary. The remaining single storey extension could then be roofed broadly in accordance with the extant approval 2012/0190. The appeal on ground f) succeeds to that extent.

The appeal on ground g)

10. The appellant's evidence in this regard related to undertaking works of complete demolition and the loss of kitchen facilities. This argument would no longer apply because I am varying the requirements of the Notice so that the ground floor of the extension is retained. The date of this decision would give 3 months for compliance before the winter period and so that argument no longer applies either. I consider that 3 months would be sufficient to carry out the works required. The appeal on ground g) therefore fails.

Conclusion

11. For the reasons given above, and having regard to all other matters raised, the appeal does not succeed other than in the terms that the steps are varied as specified.

Aidan McCooley

Inspector