



Planning Enforcement Report for 0139/2020



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Report to Planning Committee

Reference Number: 0139/2020

Location: Land at 2 Rowan Avenue Ravenshead.

Breach of Planning Control: Construction of an unauthorised rear dormer extension and unauthorised boundary fence to the front of the property.

Background

- 1.1 In August 2020, the Council received a complaint about the construction of a rear dormer extension at 2 Rowan Avenue, Ravenshead. The unauthorised dormer extension measures 4.2m in depth, 9.2m width and 3.4m in height with a flat roof. The dormer has been constructed with a render finish and with a fibreglass roof.
- 1.2 The property is a detached chalet bungalow with a flat roof dormer to the principal elevation as well as an integral garage and off-street parking to the front of the site.
- 1.3 The site is located at the end of Rowan Avenue and perpendicular to 14 Oakwood Drive which lies immediately to the north of the site. Other dwellings lie to the south and west as well as across the highway to the east.
- 1.4 The Council's Enforcement Officer attended the site and assessed the dormer extension to be too large to be permitted development and advised the owner to stop work and make a planning application. Eventually a valid planning application was submitted at the beginning of January 2021 but it was refused on the 15th January 2021 (Reference 2020/0951).
- 1.5 It should also be noted that as part of an earlier planning application, (Reference 2020/1164) the Planning Officer raised issue with a proposed rear dormer window of the same dimensions as that now constructed. Given the concerns raised, the applicants omitted this dormer window from the earlier scheme but the applicant has since constructed the dormer window without consent, knowing permission was required.
- 1.6 A fence which exceeds 1m in height, has also been erected to the front of the site without the benefit of planning permission and this was not included in either planning application.

2 Planning History

- 2.1. Reference - 2020/1164 - Proposed porch and new dormer windows to the front elevation and single storey rear extension to the dwelling along with the application of render to the whole property (permitted 16.03.2020)

3 Assessment

- 3.1 Although the construction of the dormer extension and front boundary fence has occurred without planning permission and is therefore unauthorised, local planning authorities are required to consider government guidance when deciding whether to take planning enforcement action. Government guidance is found in the National Planning Policy Framework (NPPF) (Paragraph 58) and states that although effective enforcement is important as a means of maintaining public confidence in the planning system, ultimately enforcement action is discretionary and local planning authorities should act proportionately in responding to breaches of planning control.
- 3.2 The main considerations when deciding whether to take enforcement action in this case are;
- i) Whether the extension and fence has any detrimental effect on the amenities of the occupiers of nearby properties, on character of the area or the environment, or highway safety.
 - ii) whether the Local Planning Authority is within the four year statutory time limit for taking action for built development.

Planning policy considerations

- 3.3 The fundamental aim of the NPPF is that the planning system should achieve sustainable development by three overarching objectives and in doing so should take local circumstances into account to reflect the character, needs and opportunities of each area. It attaches great importance to positive improvements in the conditions which people live and work and paragraph 124 of the NPPF states “Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.” Paragraph 130, of the NPPF further states that “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions...”
- 3.4 At the local level, Policy 10 of the Greater Nottinghamshire Aligned Core Strategy (2014) seeks to proactively promote good design and reinforce valued local characteristics. In order to achieve this, the policy approach sets out a number of criteria to reinforce valued local characteristics.
- 3.4.1 Policy LPD 32 of the Local Plan Document seeks to protect the amenity of nearby residents or occupiers.

- 3.5 Policy LPD 43 advises planning permission will be granted to extensions not in the Green Belt but in urban and key settlements, providing the proposal is in keeping with the character of the area and it does not cause a significant adverse impact on the amenity of nearby occupiers.
- 3.6 Policy LPD 61 states that “Planning permission will only be granted for development proposals which do not have a detrimental effect on highway safety...”

Principle

- 3.7 The site is located outside of the Green Belt within an urban area where the principle of a residential extension is considered to be acceptable through Policy LPD43 subject to it complying with certain criteria and other relevant planning policies.

Design / Visual Amenity

- 3.8 The dormer is of a significant size, extending across the full width of the dwelling and forward from the rear elevation of the approved single storey rear extension thus appearing more as a large first floor extension than a subservient dormer window.
- 3.9 In addition to the above, the dormer has a flat roof that extends across the full width of the dwelling; the use of flat roofs, particularly at this scale is usually not considered to be good design principle.
- 3.10 The use of the flat roof on a build of this scale, combined with the existing rear single storey flat roof extension, is viewed as an incongruous addition that does not reflect the character or appearance of the dwelling. Furthermore, the proposal is viewed from Oakwood Drive and as such would have some prominence within the street scene.
- 3.11 In addition, a fence which exceeds the 1m permitted development height has been erected to the front of the property which is also out of character with other front boundary treatments of other dwellings in the neighbourhood and it appears as a hostile barrier against the view from the street to the property.
- 3.12 The dormer extension and the front boundary fence adjacent to the highway are both detrimental to the character of dwelling and the immediate area and are overly prominent within the street scene. As such, the extension and fence are in conflict with Section 12 of the NPPF (2019), Policy 10 of the GBACS (2014), and Policies LPD 32 and LPD 43 of the LPD

Impact on Residential Amenity

- 3.13 Properties either side of the site are bungalows/chalet bungalows and as such a first floor addition has the ability to impact upon neighbouring properties. The dwelling to the north extends beyond the proposed addition with a blank roof slope facing onto the proposed development and as such the addition is unlikely to have an adverse impact upon this neighbour.
- 3.14 Furthermore, due to the orientation of the plots and the distance from the dormer extension to the neighbouring dormer window, there is not an adverse overshadowing impact and the neighbouring property has an existing extension at first floor level which already limits sunlight to the rear ground floor windows of it.
- 3.15 However, to the south the neighbour would have a clear view of the addition and the dormer which would, in my view, have an overbearing impact given the scale and bulk of the addition. Taking into account the location and scale of proposal, it is considered that there would be an unacceptable adverse impact on the residential amenities of the occupiers of adjacent properties in accordance with Section 12 of the NPPF (2019), and Policies LPD 32 and LPD 43 of LPD (2018).

Highway Safety

- 3.16 Parking and access are not affected by the development.

Time Limits

- 3.17 The statutory time limit for taking action for built development is 4 years. In this case it is considered the Council is within time to commence enforcement proceedings such as issuing an enforcement notice requiring the extension to be removed and fence to be removed or reduced in height.

Human Rights

- 3.18 Under the Human Rights Act, it is necessary for the Authority to have regard to the rights of the owner and occupier of a site under Article 1 of the First Protocol to peaceful enjoyment of possessions and the protection of property and under Article 8 of the convention to respect for his private and family life, his home and his correspondence except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
- 3.19 In considering whether to take any enforcement action, the Council has to consider the proportionality of its actions. In other words whether the proposed action would be proportionate to the objective being pursued – here the enforcement of planning control in support of National and Local Planning Policies. It is recognised that issuing an enforcement notice, or pursuing formal

proceedings in the Magistrates Court if the notice is not complied with, will result in interference with the recipients' rights. However, it is considered that issuing a notice in the first instance would be a proportionate response to rectifying the breach of planning control taking place and depending on compliance with the notice it might well be justified to take court action.

Equalities

3.20 The Council's Planning Enforcement team operates in accordance with the Council's Planning Enforcement Policy and is largely dictated by legislation which reduces the risk of discrimination in this service. The Council is accountable to the public, including its stakeholders, for its decisions both to take enforcement action and not to utilise its enforcement powers. There is a legitimate expectation of the public and stakeholders that the Council will take action to address breaches of planning by such means as are appropriate in the individual circumstances and which are in accordance with the Council's policy and government legislation.

3.21 The Council strives for a consistent approach in targeting its enforcement action. This means that the Council will take a similar, but not the same, approach to compliance and enforcement decisions within and across sectors. It will strive to treat people in a consistent way where circumstances are similar. Each case however will be evaluated on the basis of its own facts and circumstances but will ensure that decisions or actions taken in any particular case are consistent with the law and with the Council's published policies. It should be noted that decisions on specific enforcement actions may rely on professional judgment. The Council will usually only take formal enforcement action where attempts to encourage compliance have failed as in this case.

Crime and disorder

3.22 The Crime and Disorder Act 1998 places a duty on the Local Planning Authority to do all that it reasonably can to prevent crime and disorder in its area. The potential impact on the integrity of the planning system and the setting of a precedent if action is not taken is therefore a material consideration in the authorisation of enforcement proceedings.

3.23 In light of all the facts it is now considered expedient to serve an enforcement notice to require the removal of the unauthorised dormer extension and the removal or reduction in height of the front boundary fence to 1m.

4 Conclusion

4.1 The dormer extension and the fence has a detrimental impact upon the character of the area, failing to reflect the form and layout of the dwelling, and it also has an adverse impact upon the amenities of the occupiers of neighbouring properties.

- 4.2 The breach conflicts with both national and local policies. The owners have failed to rectify the breach and failure of the Council to act in these circumstances may leave a dwelling with an unauthorised extension and fence which is out of character and detrimental to the character and amenity of the area and which is beyond the control of the Council.
- 4.3 The Council should now commence enforcement action without delay by issuing a planning enforcement notice requiring the extension to be removed and the fence to be removed or reduced in height to 1m. If the notice is not complied with proceedings should be taken in the courts if necessary.

5 Recommendation

- 5.1 The Head of Development and Place, be authorised to take all enforcement action including the service of any necessary enforcement notices and in conjunction with the Head of Governance and Customer Services take proceedings through the courts if required to ensure the removal of the unauthorised dormer extension and the removal of the fence or alternatively the reduction in height of the fence to 1m.**