

Appeal Decision

Site visit made on 25 October 2016

by John Whalley

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

Decision date: 31 October 2016

Appeal ref: APP/M2372/C/16/3145927
333 Revidge Road, Blackburn BB1 8DF

- The appeal was made by Mr Iqbal Darbar under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by Blackburn with Darwen Borough Council.
- No date of issue was shown on the enforcement notice. It was to take effect on 18 March 2016 if no appeal was made.
- The breach of planning control alleged in the notice was: Without planning permission, the creation of a new vehicular access onto a classified road by the demolition of a front boundary wall between A & B on the plan attached to the notice and the creation of a vehicular parking area shown hatched on the plan attached to the notice.
- The requirements of the notice are to:
 - (i) Cease the parking of vehicles on the parking area hatched on the plan attached to the notice.
 - (ii) Rebuild the 0.7m front boundary stone wall and pillar as existed prior to their demolition.
- The period for compliance with the requirements is 2 months after the date the notice takes effect.
- The appeal was made on grounds (a), (c), (d) and (g) as set out in Section 174(2) of the 1990 Act.

Summary of Decision: The enforcement notice is upheld

Appeal scheme

1. The appeal concerns the mid-terrace house, No. 333 Revidge Road, Blackburn, and its front garden. The enforcement notice was issued against the provision of a new vehicular access from the garden on to the fronting classified road, Revidge Road. The property lies within the Corporation Park Conservation Area.

Procedural matter

2. The Appellant, Mr Darbar, in addition to appealing on ground (a) appealed on grounds (c) - that there had not been a breach of planning control; (d) - that the appeal development had become immune from enforcement action by the passage of time and (g) - that the period for compliance with the requirements of the notice was too short. In a letter to Mr Darbar dated 15 March 2016, the

Planning Inspectorate warned Mr Darbar that the Secretary of State would determine the appeal without considering the grounds for which no facts had been given. Mr Darbar provided no supporting facts on grounds of appeal (c), (d) or (g). The appeals on grounds (c) and (d) are therefore not considered. The Council made submissions on the ground (g) appeal. As well as dealing with the ground (a) appeal, asking that planning permission be granted to retain the development enforced against, the appeal on ground (g) is also considered.

Other matter

3. The Appellant, Mr Darbar, said that the Council had provided him with wrong information regarding the work on his driveway. Before he started work, he had phoned the Council to ask what he needed to do to build a driveway. He said he was told to contact the Council after he had built the driveway in order to make an application to them to drop the footway edge kerb. When workmen were building the new access, a Council officer asked them if planning permission had been sought. When Mr Darbar pointed out to the Council that he had approached them before the start of work, he was told he had been given wrong information. He now complained he was being penalised for the Council's wrong advice.
4. It seems to me that a misunderstanding arose when Mr Darbar first contacted the Council. Section 57(1) of the Act says that planning permission is required for the carrying out of any development of land. Section 55(1) says that "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. When building work of any significance is proposed, it is necessary to check with the local planning authority to find out if planning permission is needed. Other permissions may be necessary, such as those required by the Building Regulations or, in this instance, checking with the highway authority where works affecting their interests are concerned. It appears that Mr Darbar was unaware of these details and may not have made the appropriate enquiries. However, it is not a matter on which I can assist. I can only deal with the enforcement notice appeal before me.

The appeal on ground (a)

5. Mr Darbar has removed the low stone wall and gate pillars that typically front the small roadside gardens to the houses in the terrace in which No. 333 Revidge Road is situated. He has formed a surfaced parking area in front of the house's bay window in a space that is less than 4m deep to the back of the road's footway. Mr Darbar said the parking space was needed to help his disabled daughter have easier access to the car that otherwise had to be parked in the road where nearby spaces were frequently unavailable.
6. The Council had 2 objections to the retention of the car access and parking area. They said the minimum car parking space within the curtilage of a dwelling should be 2.4m x 5.5m. That could not be provided at No. 333 without the required space encroaching onto the fronting footway. Also, the loss of the fronting wall had a detrimental effect on the character and appearance of this part of the Conservation Area.
7. A conservation area is an area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance, (s.69, Planning (Listed Buildings and Conservation Areas) Act 1990).

8. The Council's minimum car parking space within the curtilage of a dwelling of 2.4m x 5.5m cannot be met within the length available in the front garden to No. 333. Indeed, it is well short; being less than 4m deep to the bay window. Although there are several cars available that are less than 3.6m in length, the likelihood is that some undesirable overhanging onto the footway would occur.
9. The terrace of 2 storey houses in which No. 333 is situated is pleasantly uniform and has notable features that contribute to the attractiveness of this part of the Corporation Park Conservation Area. They include the 0.7m high stone walls and their pedestrian gate pillars that run the length of the terrace. That is now with the sole exception at No. 333, where they have been demolished. The short front gardens, with steps up to the front doors to the houses, are mostly planted and are not hidden from view from the wide footway. None, other than at No. 333, have parking areas within their front gardens. As a consequence, the break in the wall at No. 333 and the likelihood that a car will be incongruously parked in what is an inadequate space in front of the distinctive bay window, is an insensitive and intrusive feature that fails the test of preserving or enhancing this part of the Conservation Area.
10. Mr Darbar said his daughter has a disability. Easy access to their car was needed. It was not always possible to find a parking space on the road close to the house. I accept that the facility to park a car on the house's short front garden may be desirable. But no case was made out nor medical expert evidence provided to show that Mr Darbar's daughter needs were such that the amenity objections to retaining the car parking space at No. 333 should be set aside. It was merely claimed that "Health and Safety takes precedent over other matters"; a statement in need of cogent reasoning and justification.
11. I am also concerned that allowing this appeal could make it difficult for the Council to reasonably resist further applications for similar developments at nearby properties. That could have a substantially harmful effect on this part of the Conservation Area.
12. The appeal on ground (a) fails. Planning permission is not granted on the application deemed to have been made to retain the enforcement notice works.

The appeal on ground (g)

13. This appeal asserts that the period for compliance with the requirements of the notice is too short. No supporting facts were put forward to substantiate this ground of appeal. As the Council said, given the relatively small amount of work required, the 2 months period was not unreasonable. I find no sound reason to justify increasing the period for compliance. The appeal on ground (g) fails.

FORMAL DECISION

14. The enforcement notice is upheld. Planning permission is not granted on the application deemed to have been made to retain the unlawful development.

John Whalley

INSPECTOR