
Appeal Decision

Site visit made on 12 December 2016

by K R Saward Solicitor

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

Decision date: 20 December 2016

Appeal Ref: APP/K0235/C/16/3157538

17 Stewartby Way, Stewartby, Bedford MK43 9LX

- 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 Mrs Sarah Hulatt against an enforcement notice issued by Bedford Borough Council.
 - The enforcement notice was issued on 26 July 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the formation of an unauthorised extension of the hardstanding area to the front of the land shown hatched black on the plan attached to the notice.
 - The requirements of the notice are:-
 - (i) Remove from the land the unauthorised hardstanding area as shown hatched black on the plan attached to the notice;
 - (ii) Remove the brick/block edging to the eastern edge of the unauthorised hardstanding area;
 - (iii) Restore the area hatched black on the plan attached to the notice to its condition before the breach occurred by levelling the ground to match the existing frontage lawns of number 17 and 18 Stewartby Way, Stewartby and re-seeding it with grass or by laying of turf;
 - (iv) Within the hatched black area replace the existing 3 dropped kerbstones with raised ones to match the original height, design and materials of the remaining kerbstones on the frontage of 17 and 18 Stewartby Way, Stewartby; and
 - (v) Remove from the land all the rubble and debris arising from compliance with steps (i) (ii) and (iv).
 - The period for compliance with the requirements is 4 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. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under s177(5) of the Act.
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Decision

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.

Procedural Matters

2. Only the ground (a) box was ticked on the Appeal Form. The Grounds of Appeal suggested that the appellant may be seeking to advance a case on ground (c) which is where the matters alleged in the notice do not constitute a breach of planning control. When clarification was sought, the appellant gave a reply under the heading of "ground (b)". This ground is that the breach of control alleged in the notice has not occurred.
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3. In the appellant's response, it is not contested that "we made our drive bigger" and when replying to the Planning Contravention Notice issued by the Council the appellant said "the drive is an extra 2 cars [width]". It is also clear from photographic evidence produced by the Council that the driveway has been widened. In the circumstances, there can be no dispute that the works have been undertaken.
4. Furthermore, an Article 4 Direction made in 1987 removes permitted development rights in the Stewartby Conservation Area, of which the appeal site forms part, and this includes 'Hardstandings for stationing a vehicle off the highway'. Express planning permission is therefore required for any such development. When planning permission was granted in 2002 for a driveway and hardstanding at the premises, this was for a much smaller area. Therefore, I consider that appeals on grounds (b) or (c) would be bound to fail.

Main Issue

5. The main issue is whether the hardstanding preserves or enhances the character or appearance of the Conservation Area.

Reasons

6. The appeal property is a large semi-detached house located within the Stewartby Conservation Area, a designated heritage asset.
7. The Stewartby Conservation Area Character Appraisal and Management Plan ('the Appraisal') was adopted by the Council in 2016. It identifies that the special interest of the Conservation Area lies in its history as a planned model village built between 1927 and 1978 for the brick workers of the London Brick Company. Among the points of significance and special interest are the open spaces and trees, both public and private that contribute to the open character of the area and to important views. Also noted is the open nature of frontages with little/no boundary treatment to define separation between the public and private realm.
8. Within the Appraisal, the appeal property is defined as one of a number of buildings of 'positive merit' and the area in front of the property into which the hardstanding has been extended is shown as 'significant green space'. The overall character of the area in which the appeal property is situated is described as suburban with a mix of greenery and mostly semi-detached housing. Stewartby Road is said to form the spine that runs east/west across this area and remains the principal road of the village.
9. No 17 is among a row of houses in the same style which front Stewartby Road in a slightly curved line. A pathway runs in front of the row so that there is a small area of garden immediately in front of each house on one side of the path and a wide expanse of land on the other side which extends beside the road. This land is grassed except where intersected by driveways. The extended driveway attacked by the notice forms a large area of shingle cutting across the grass leaving only a small piece of grass in front of No 17 undeveloped. It is at odds with the greenery on either side which typifies the vicinity and where the areas of grass in front of the buildings create a pleasing soft landscaped feel.
10. Whilst there are examples of shingle drives at neighbouring properties in the row, there are not very many and those that exist are nowhere near as large. Even though there are other forms of hard surfacing at houses in the area, the

circumstances giving rise to those developments is unclear. It does not provide justification for this extended driveway.

11. The extent of shingle causes a large and abrupt gap in the grass in a location where it is particularly apparent being next to a vehicular highway. Given the openness of the area, the level of discord is evident even from some distance. By extending the driveway on such a scale, it has eroded the green space which otherwise makes a positive visual contribution to the area. Indeed, I note that a photograph of the driveway appears within the Appraisal and is annotated as an example of a "new driveway on an inappropriate scale".
12. The development thus detracts from the area and the heritage significance of the Conservation Area.
13. I conclude that the hardstanding has a significant detrimental effect on the character and appearance of the area and it neither preserves nor enhances the character or appearance of the Conservation Area. It is therefore contrary to saved policies BE9 and BE11 of the Bedford Borough Local Plan 2002 and CP23 of the Core Strategy & Rural Issues Plan 2008, which all seek to protect conservation areas. It also conflicts with the similar aims within Paragraphs 17, 56, 58, 60 and 131 of the National Planning Policy Framework.
14. Paragraph 132 of the Framework states that great weight should be given to the conservation of heritage assets. In this case, when viewed in the context of the Conservation Area as a whole, the magnitude of harm can be considered as less than substantial. In such circumstances, Paragraph 134 of the Framework provides that this harm should be weighed against the public benefits.
15. The appellant has not identified any public benefits as such. The benefits are principally to the household in having additional off-street parking provision to accommodate several vehicles instead of parking on the grass and causing it to become muddy or parking in the street. The appellant says cars from the household have in the past been damaged on two occasions whilst parked on the street. Extra parking facility may reduce the likelihood of parking on the adjoining roads or stop mud from damaged grass getting onto the highway. These may be considered as positive factors. However, any public benefit will invariably be very limited particularly as there is no evidence that on-street parking poses a highway safety risk in this particular locality. Whilst harm to the significance of the Conservation Area is less than substantial, these factors do not suffice to outweigh the harm described.

Conclusion

16. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal on ground (a) and the application for deemed planning permission should fail.

KR Seward

INSPECTOR