

Appeal Decisions

Site visit made on 13 February 2017

by D H Brier BA MA MRTPI

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

Decision date: 21 February 2017

Appeals by Mrs R Jordan

6 South View, Worksop, Nottinghamshire S81 0HR

Appeal A Ref: APP/A3010/C/16/3155556

- 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 against an enforcement notice issued by Bassetlaw District Council.
- The enforcement notice was issued on 19 July 2016.
- The breach of planning control as alleged in the notice is: the replacement of a timber window with a UPVC window; the replacement of a UPVC front door with a new UPVC door of non-traditional design; and the removal of the front boundary wall, pillars, coping stones, railings and gate.
- The requirements of the notice are:
 - (i) Replace the UPVC window with a timber casement window of the same design.
 - (ii) Replace the UPVC front door with a UPVC Georgian pastiche design front door.
 - (iii) Rebuild and reinstate the front brick boundary wall, pillars, coping stones, railings and gate.
- The period for compliance with the requirements is 12 months.
- 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.

Summary of Decision: The appeal is dismissed.

Appeal B Ref: APP/A3010/W16/3160556

- 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 against the decision of Bassetlaw District Council.
- The application Ref 16/00969/HSE, dated 5 July 2016, was refused by notice dated 19 September 2016
- The development proposed is demolition of front boundary wall.

Summary of Decision: The appeal is dismissed.

Appeal C Ref: APP/A3010/W16/3160632

- 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 against the decision of Bassetlaw District Council.
- The application Ref 16/01066/HSE, dated 26 July 2016, was refused by notice dated 20 September 2016.
- The development proposed is a hardstanding for 2 cars.

Summary of Decision: The appeal is dismissed.

The Appeals Site and Background

1. No.6 South View lies within Mr Straw's Conservation Area. The area is subject to a Direction made under Article 4(1) of the Town and Country Planning (General Permitted Development Order) 1995. The effect of this is that planning permission is required for the matters listed in Schedule 1 which otherwise would have constituted 'permitted development'.
2. All the work referred to in the section 78 appeals, some of which forms part of the matters alleged in the enforcement notice, has been carried out. An earlier section 78 appeal concerning the insertion of 3 windows on the side elevation of the house was dismissed in June 2015¹.
3. I have read that the hardstanding, which occupies the entire frontage of No.6, the formation of which involved the removal of the front boundary wall, was laid out by the previous owners of the appeal property before the appellant purchased it in September 2015. It is submitted that although the Council were aware of the unauthorised works in December 2014, and had re-authorised enforcement action in July 2015 following the receipt of the appeal decision referred to in the preceding paragraph, the Local Authority Search in August 2015 did not reveal any evidence of this.
4. From what has been said, the appellant appears to be in the position she has found herself in through no fault of her own. Moreover, had the Council chosen to exercise their discretion to take enforcement action at an earlier stage, this may have had a bearing on her decision to purchase the appeal property. However, while these matters, which have been the subject of extensive submissions on the part of the appellant, are not something I set aside lightly, it is not within my remit to investigate and examine them further. Accordingly, therefore, while I sympathise with the appellant's predicament, I shall refrain from making a judgement on the points raised in this respect. My decisions will focus on the planning merits of the respective cases.

Section 174 Appeal A on Ground (a) and the Deemed Application, Section 78 Appeals

5. I consider the main issue is whether the character and appearance of the host property and Mr Straw's Conservation Area would be adversely affected. In so saying, I am mindful that section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. This approach is reflected in Policy DM8 of the Council's Core Strategy and Development Management Policies DPD, headed 'The Historic Environment'.
6. The part of the conservation area in the vicinity of the appeal property is characterised in the main by houses dating from the late nineteenth and early twentieth centuries. Although the size of these properties varies, one of the characteristics which contribute to the area's special visual quality is their well-proportioned form, and the detailing many of the houses display, including traditional features such as doors and windows.
7. Despite the works in question, the appeal property still displays a number of the attributes that help define the conservation area. Indeed it, together with

¹ Decision reference APP/A3010/D/3006348 dated 24 June 2015.

the adjoining house, No.8, is identified in the Council's Conservation Area Appraisal (CAA) as one of the area's 'positive' buildings. In addition, the CAA depicts the front boundary of Nos 6, 8 and 10 and 12 South View as a 'significant boundary' – another feature that contributed to the quality of the area. The CAA does not form part of the development plan, but I regard it as a highly relevant consideration to which I attach weight accordingly.

8. Although there are already UPVC windows on the front elevation of No.6 and the previous front door appears to have been a UPVC one too, the form of the door in question, the presence of which is readily apparent from South Grove, has a markedly modern appearance which does not sit comfortably with a traditional period property such as the appeal property. Being on the flank wall of No.6, the window in question is less prominent, but due to the gap between Nos 6 and 4, and its elevated position, the window is visible from a stretch of South Grove. The relatively thick frames of the window give it a markedly 'heavy' appearance which is also rather at odds with the overall form of No.6.
9. The removal of the front wall, a feature that contributed to the distinctiveness of the area, is something that has eroded this quality in its own right. This impact has been exacerbated by the replacement of what, judging by the neighbouring houses, appears to have been a small garden area in front of No.6, by a large expanse of hard surfacing. Not only does this occupy the whole of the frontage of the house, it also extends outwards beyond the line of the former boundary wall. No issue is taken with the quality of the workmanship, but, due to its scale and extent, this substantial hard feature tends to dominate No.6's frontage. It has markedly altered the setting of the front of the house to the detriment of its appearance and that of the local street scene in general. T
10. The hardstanding allows for vehicles to be parked off the road in a location where such opportunities are somewhat limited. Support for the works in this respect has been expressed by several neighbours and I am mindful that the appellant's submissions regarding the level of on-street parking in South View at night-time and at weekends has not been challenged. Given the nature of South View, I can well understand the concern about the consequences of additional parking here. Nevertheless, the particular circumstances of this case are such that I consider this matter is outweighed by what I regard as legitimate objections to the development in question.
11. In my opinion the works in question – individually and collectively - have adversely affected the character and appearance of the host property and the conservation area. Rather than preserving or enhancing the character or appearance of the latter they have harmed its special quality. As such I find the disputed development contrary to DPD Policy DM8.
12. Paragraph 132 of The National Planning Policy Framework (The Framework) advises that when considering the impact of a proposed development on the significance of a designated heritage asset such as a conservation area, great weight should be given to the asset's conservation. As the appeals site is in a fairly secluded cul-de-sac on the edge of the conservation area, the development in question has resulted in less than substantial harm to the significance of the conservation area as a whole. In such circumstances paragraph 134 of The Framework advises that this harm should be weighed against the public benefits of the proposal. In this case, the benefits that have

accrued from the disputed appear to me to be primarily private ones. As a result, they do not outweigh the harm to the significance of No.6 as acknowledged in the CAA, or to the conservation area.

13. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application and the section 78 appeals.

Section 174 Appeal A on Ground (g)

14. In essence, the appeal on this ground is made on the premise that the appellant and her husband cannot afford to carry out the remedial works set out in the requirements of the enforcement notice. They would need at least 5 years to allow for this.
15. It is not claimed that the compliance period is too short insofar as the physical practicalities involved in carrying out the requisite works are concerned. But, the appellant clearly has been placed in a difficult position in that she is effectively going to have to pay the price for the transgressions of another party over which seemingly she had no control. That said, a 5 year compliance period would effectively be tantamount to granting planning permission which, for the reasons given in the preceding section, would not be appropriate. Furthermore, in the absence of any details of the likely cost of the remedial works and the appellant's finances, it is difficult for me to come to a firm view as to whether a longer compliance period would be warranted.
16. All this leads me to conclude that the 12 month compliance period is not unreasonably short in this instance. In so saying though, I am mindful that section 173A(1)(b) gives the Council the discretion to extend the compliance period if need be.
17. The appeal on ground (g) therefore fails.

Other Matters

18. I have taken into account all the other matters raised. None, however, are sufficient to outweigh the considerations which have led me to my conclusions.

Formal Decisions

Section 174 Appeal A Ref: APP/A3010/C/16/3155556

19. I dismiss the appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Section 78 Appeal B Ref: APP/A3010/W16/3160556

20. I dismiss the appeal.

Section 78 Appeal C Ref: APP/A3010/W16/3160632

21. I dismiss the appeal.

D H Brier

Inspector