
Appeal Decision

Site visit made on 20 August 2019

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 17 September 2019

Appeal Ref : APP/D3830/C/18/3216894

145 High Street, Hurstpierpoint, Hassocks, West Sussex, BN6 9PU

- 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 Luke Malins against an enforcement notice issued by Mid Sussex District Council.
- The notice was issued on 25 October 2018.
- The breach of planning control as alleged in the notice is without planning permission (a) the construction on the existing dwelling on the land (the Dwelling) of a ground floor extension on the northern elevation and reconstruction of the first floor of the Dwelling including installation of a flue, three roof light windows to the western elevation, glazed panel to the eastern elevation, replacement windows and alteration to the appearance and finish of the Dwelling (the Unauthorised Works); and (b) the demolition of a brick boundary wall on the land in the approximate position shown between points A and B on the plan attached to the notice hereinafter together referred to in the notice as the Unauthorised Development.
- The requirements of the notice are 1) remove the Unauthorised Works and reinstate the Dwelling to its design and appearance immediately prior to the breach, to include (but not limited to) the following: a) remove from the Dwelling the cement board fascia and fixings to all elevations; b) reinstate, in accordance with drawing number 16/142/SK02 A and as shown on Photo 1 and Photo 2 (copies of which are attached to the notice) i) the catslide roof and front facing gable; ii) the red brick finish to the ground floor; iii) the clay tile hanging to the first floor; iv) the clay tile roof; v) the windows at ground floor and first floor level (including cills and reveals at ground floor level); c) demolish the block rendered wall erected to the rear western elevation on the land in the approximate location shown between points A and B on the plan attached to the notice and rebuild on the land a boundary wall with facing red brick in a running bond to a height of 1.8m above ground level in the approximate position shown between points A and B on the plan attached to the notice; 2) Alternatively, remedy the breach of planning control by making the development comply with the terms, including conditions and informatives, of the planning permission which was granted on 2 May 2017 in respect of the land under reference DM/16/5175 a copy of which is attached to the notice (the Planning Permission) and for the avoidance of doubt this shall include discharging conditions 3, 4 and 5 of the Planning Permission; 3) remove from the land any other waste or debris resulting from steps 1 or 2 above.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: the appeal is dismissed and the enforcement notice is upheld

Ground (a) appeal and deemed application

Main Issue

1. The main issue in the determination of this appeal is the effect of the development on the character and appearance of the area with particular regard to its location in a Conservation Area.

Character and appearance

2. As the site sits within a Conservation Area I shall pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The development plan (including the Mid Sussex District Plan (the District Plan)) mirrors the National Planning Policy Framework (the Framework) in seeking to ensure that development respects its setting. Policy DP35 of the District Plan provides that development in a conservation area will be required to conserve or enhance its special character, appearance and the range of activities which contribute to it. I shall also take into account relevant policies in the Hurstpierpoint and Sayers Common Neighbourhood Plan.
3. The appeal site is a detached dwellinghouse which abuts the pavement and is orientated at 90 degrees to the road. It is located within the Hurstpierpoint Conservation Area (the Conservation Area). It is highly visible and in a prominent location. The High Street is characterised by buildings of varied age and architectural style with a mix of residential and commercial uses. The juxtaposition of traditional building materials and finishes contributes to the richness of the streetscape and its historic character and appearance. There are Grade II Listed Buildings in the locality including no. 141 High Street.
4. Planning permission ref. DM/16/5175 (the Planning Permission) has been granted for extensions and alterations to the building. The Planning Permission includes conditions which provide for the materials and finishes for external walls and roof, windows and doors to be approved before development is carried out. The Planning Permission is a material consideration in the determination of this appeal.
5. The unauthorised development comprises the construction of a ground floor extension and reconstruction of first floor. The notice specifically refers to the installation of a flue, three roof light windows, glazed panel, replacement windows and the finish of the building.
6. The flue installed to the western slope of the building has a metal finish and is industrial in appearance. It is highly prominent in views along the High Street. It dominates the host dwelling and creates a modern appearance out of keeping with the traditional character of the surrounding Conservation Area. I note that the Appellant has proposed to replace the flue with a chimney but the deemed application before me concerns the development carried out and an alternative chimney is not before me for consideration in this ground of appeal.
7. The three rooflight windows installed on the western roofslope are of an aluminium finish with no glazing bars. They are highly visible from the High Street. Their design is modern and out of keeping with the surrounding area.

Multiple rooflights of a similar modern box like design are not characteristic of the wider Conservation Area.

8. The glazing on the eastern elevation is a large elongated recessed modern panel stretching almost from the eaves to the roof ridge. Its design is modern and out of keeping with the surrounding area. Large glazed panels of this design are not characteristic of the wider Conservation Area.
9. The unauthorised development includes aluminium windows of sash design. The absence of cills and limited depth or reveal creates a modern appearance out of keeping with the surrounding area. Whilst I note that the Planning Permission refers to grey powder-coated aluminium windows condition 4 of the Planning Permission provides that no development shall be carried out until drawings, including sections, of an appropriate large scale, showing the materials and finishes of all new windows and external doors have been submitted to and approved in writing by the local planning authority. The condition specifically refers to detail of the window reveals and that work shall be carried out in accordance with approved details. The windows installed are not in accordance with the Planning Permission as the conditions have not been discharged.
10. The building is faced in rendered cement boards. Whilst I note that natural ageing will in time marginally reduce its prominence the building nevertheless stands out in the streetscape, its prominence enhanced by the fact that it does not match the finish of neighbouring properties. It creates a dominant appearance in the streetscape and its form has resulted in the main façade of the building being built forward of the footings of the wall so that it overhangs the pavement. This looks awkward and adds to its prominence in the streetscene. The issue is not the principle of the use of render but the particular rendered cement boards in place. I have taken into account other buildings in the locality, including those drawn to my attention in this appeal, but I do not find the finish of buildings similar to the appeal site to be characteristic of the area. I note that the Appellant says that this method of construction was necessary to meet building regulation standards but I am not persuaded on the evidence before me that alternative measures could not be used without creating the identified harm.
11. The unauthorised development includes a rendered wall at the rear of the dwelling along the western boundary of the garden. I note that the Planning Permission includes part demolition of the former brick wall but this does not justify the development carried out. Its finish matches the rendered cement boards of the main building and is equally unsympathetic to the character and appearance of the surrounding area.
12. These elements collectively create undue harm to the character and appearance of the surrounding area and fail to preserve or enhance the character and appearance of the Conservation Area. The works do not reflect the special characteristics of the area in terms of design and use of materials. I have taken into account the support for the development from a neighbour but I cannot agree that the works enhance the High Street, quite the opposite I find that the works fail to conserve the character and appearance of the area. I have also taken into account the descriptions of the former building but these do not outweigh my concerns. The development fails to accord with relevant policies in the development plan

(including policy DP35 of the District Plan) and the Framework and planning permission should not be granted in whole or part.

13. The development does not lead to the loss of a heritage asset and it causes less than substantial harm to the character and appearance of the Conservation Area. I have taken into account the improvement in the quality of accommodation, the minor economic benefit created by the works and the potential for improved energy efficiency of the building but no material considerations or public benefits outweigh the identified harm.
14. There are Grade II Listed Buildings in the locality. But I consider that the appeal site does not adversely affect the setting of any listed building in the surrounding area.
15. I have considered whether the identified harm could be controlled by conditions. I have taken into account the Planning Practice Guidance and the conditions proposed by the Council in the event that the appeal is allowed. I do not consider that conditions would overcome the identified harm.
16. The Appellant suggests that planning permission should be granted for the roof. But the deemed application before me is for the development as a whole and I do not consider it appropriate to issue a split decision in this case.
17. For the reasons given above, I conclude that the ground (a) appeal should not succeed and planning permission should not be granted on the deemed application.

Ground (f) appeal

18. This ground of appeal is that the steps required by the notice are excessive. There are two purposes that an enforcement notice can seek to achieve – firstly, to remedy the breach of planning control and secondly, to remedy any injury to amenity caused by the breach. In this case there are alternative steps set out in the notice and therefore the Council has sought to address both purposes with alternative steps.
19. The Appellant says that if planning permission is not granted on the deemed application (in whole or part) the steps outlined under planning application DM/18/0288 provide appropriate and proportionate requirements addressing the main concerns of the Council, including for example the replacement of the flue with a rendered chimney stack. He also proposes steps to sand down the ashlar coursing, bond a brick slip to the face of the plinth and replacement of windows with timber sash windows.
20. Whilst I recognise that the Appellant is seeking to find a solution to regularise the situation there is no appeal against the refusal of planning application DM/18/0288 before me to determine. It is not within my remit in a ground (f) appeal to consider the planning merits of another planning decision. Moreover, the application is not before me (I am provided only with some drawings submitted with the application) and I find that there is insufficient detail before me as to the proposed steps to enable me to determine with any certainty whether they would remedy the injury to amenity.

21. I find that the steps set out in the notice are not excessive. The Council has identified alternative steps to address both the breach of planning control and the injury to amenity.

22. The Appellant's rights to family life and use of property must be taken into account and the steps must be proportionate so as not to violate individual rights. The steps required by the notice do not prevent the use of the building as a home but I recognise the inconvenience that may be experienced. I have balanced competing interests – the individual rights of the Appellant and his family and the public interest in bringing the identified harm to an end without unnecessary delay. On balance I consider that the steps are reasonable and strike an appropriate balance. They provide for the implementation of the extant Planning Permission as an alternative to returning the site to its condition before the breach took place. There is no ground (g) appeal before me but I have also considered the period for compliance and consider this to be appropriate.

23. For the reasons given above the ground (f) appeal does not succeed.

Formal Decision

24. 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.

S. Prail

Inspector