The Planning Inspectorate

Appeal Decision

Site visit made on 24 September 2019

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2019

Appeal Ref: APP/B4215/C/19/3222130
33 Stanley Road, Whalley Range, Manchester M16 8HS

- 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 Khalida Ahmed against an enforcement notice issued by Manchester City Council.
- The enforcement notice was issued on 7 January 2019.
- The breach of planning control as alleged in the notice is: Without planning permission, the erection of a rear dormer, gable wall, porch and the raising of the roof height.
- The requirements of the notice are:
  1. Remove the rear dormer, shown edged in red on the attached photograph ENF/01 and return rear roof to its condition before the breach took place.
  2. Remove the gable wall, shown edged in blue on the attached photograph ENF/02 and return the side elevation to its condition before the breach took place by reinstating a hipped roof.
  3. Reduce the height of the roof to its height before the breach took place.
  4. Demolish the porch and return the front elevation to its condition before the breach took place.
  5. Remove from the land all building materials, rubble and waste arising from carrying out the above step.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (c) 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 section 177(5) of the Act.

Decision

1. It is directed that the enforcement notice be varied in paragraph 6 by the deletion of "Three months" and the substitution of "Six months". Subject to this variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177 (5) of the 1990 Act as amended.

Reasons

Appeal on ground (c)

2. The issue is whether the erection of the rear dormer, gable wall, porch and the raising of the roof height of the dwelling is a breach of planning control.

3. The appellant's overall submissions on this ground are that advice was taken of a professional agent who confirmed that the works did not require planning

permission. It appears that the appellant and the appointed professional were unaware that the dwelling is situated within a conservation area.

4. The property is situated within Whalley Range Conservation Area which is Article 2(3) land as defined in Schedule 1, Part 1, 1(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO). Class B.1 of Schedule 2, Part 1 of the GPDO advises that the enlargement of a dwellinghouse consisting of an addition or alteration to its roof is not permitted development when the dwellinghouse is situated within a conservation area (article 2(3) land).

5. In respect of the porch, there does not appear to be any dispute between the parties that its overall size and height is in excess of that permitted under Class D of Schedule 2, Part 1 of the GPDO, and I see no reason to disagree.

6. I conclude that the erection of a rear dormer, gable wall, porch and the raising of the roof height of the dwelling is a breach of planning control. The appeal on ground (c) must therefore fail.

Appeal of ground (a), deemed planning permission

Main Issue

7. The main issue in this case is the effect of the development on the character and appearance of the host property and Whalley Range Conservation Area.

Reasons

8. The appeal property is a mid/late 20th Century semi-detached dwelling which is situated on Stanley Road within Whalley Range Conservation Area (CA). It is one of three pairs of similar designed semi-detached properties located at this end of the street. Each pair was originally designed with a simple hipped roof, central chimney stack and square bay windows at ground floor which provide it with a sense of symmetry.

9. From my own observations, I consider the significance of the CA as a heritage asset is largely derived from the fine Victorian houses situated on tree-lined avenues which were laid out as part of the original estate design for Whalley Range. Many of the original houses remain, however it is clear that vacant plots have been developed and some larger houses demolished for redevelopment over the last century. Prior to the works alleged in the notice taking place, the contribution that the appeal property made to the character and appearance of the CA would have been neutral.

10. The enlargement of the dwelling has been facilitated by the complete removal of its hipped roof and replacement with a gable wall, which also forms the flank wall of the substantial dormer that has been constructed within the dwelling's rear roof slope. The size and extent of the dormer, together with its gable/flank wall, is such that it subsumes the original roof and significantly alters the property's proportions. In particular, the loss of the hipped roof upsets the symmetry of the semi-detached pair and detracts from the design characteristics of the original dwelling. When viewed from the street, the roof alterations as a whole, including the raised ridgeline appear as a dominant and incongruous addition which has a harmful effect on both the host property and the character and appearance of the CA.

11. In addition, the front porch is a prominent and uncharacteristic addition to the façade of the dwelling and its front garden. The scale and prominence of the porch is also heightened by its elaborate and ornate design which incorporates scalloped fascia boards, Georgian style windows, columns and a pantile roof. Overall the design, bulk and appearance of the porch conflicts sharply with the fenestration, materials and proportions of the original dwelling and has a harmful effect on the character and appearance of the host dwelling and the CA.

12. The appellant has drawn my attention to a large number of examples of other roof alterations and porches which have been constructed in the local area, and I was able to see a number of those on my site visit. However, I do not know the precise circumstances or planning considerations concerning those other extensions and how these equate to those at the appeal site. In addition, the existence of those other porches and roof extensions detract from the character and appearance of the CA and therefore do not set a precedent that should be repeated. In any event, I have determined the appeal on its own merits.

13. I conclude that the rear dormer, gable wall, porch and the raising of the roof height of the dwelling does not preserve or enhance the character and appearance of Whalley Range Conservation Area and has a harmful effect on the character and appearance of the host property. It causes less than substantial harm to the significance of the CA as a heritage asset. This harm is not outweighed by any public benefit, including the social benefit of providing improved living accommodation for the appellant's family. The development is therefore contrary to policies in the National Planning Policy Framework which seek to conserve and enhance the historic environment and promote good design. In addition, it conflicts with design and heritage aims of Policies SP1, DM1, EN1 and EN3 of Manchester's Core Strategy, adopted 2012 and Saved Policies DC1 and DC18.1 of the Unitary Development Plan for the City of Manchester.

Other Matters

14. I appreciate that the appellant undertook the works in good faith and did not seek to flout the planning regulations. I also appreciate their endeavours to work with the Council to seek solutions and I have taken into account the letters from interested parties in support of the works. However, these points have not affected my decision, which is based on the planning merits of the proposal.

15. The period of compliance with the notice is three months. Whilst the appellant has not made an appeal on ground (g), I need to consider whether or not the period of compliance set out in the notice is reasonable. In this case the additions and alterations that have taken place to the roof are substantial and will need to be removed by a builder. Given the extent of the works that will be required and the logistics of them, I consider that a period of three months is a relatively short period of time within which those services could be engaged, and the work carried out. The conclusion that I have reached is that a period of six months would be more reasonable in this instance.

Human Rights

16. I have taken into consideration the Human Rights Act, 1998 which enshrines in UK law most of the fundamental rights and freedoms contained in the European Convention on Human Rights. I recognise that dismissal of the appeal would interfere with the appellant's rights under Article 8 and Article 1 of the First Protocol. However, given the harm identified and taking into account the variation to the notice to increase the time for compliance, the action is in accordance with the law and pursues legitimate aims of protecting the environment and is necessary and proportionate to the situation.

OVERALL CONCLUSION

17. For the reasons given above, and having taken account of all other matters raised, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the deemed application.

Elizabeth Pleasant

INSPECTOR