



Appeal Decisions

Site visit made on 5 November 2019

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 17 December 2019

Appeal Refs: APP/J4525/C/19/3223345 (Appeal A) & APP/J4525/C/19/3223346 (Appeal B)

Ashbrooke Cottage, Ashbrooke Road, Sunderland SR2 7HH

- 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 Philip Williams (Appeal A) & Mrs Tracy Williams (Appeal B) against an enforcement notice issued by Sunderland City Council.
 - The enforcement notice was issued on 23 January 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission the alteration and enlargement of the front elevation and front roof plane of the dwelling, detailed in the documents attached to the enforcement notice. i) Plan by Building Design Solutions submitted as part of the retrospective planning application reference 18/02089/FUL to retain the unauthorised development, annotated "Drawing No./002; Scheme: Proposed New Front Elevation; Title: Proposed." ii) Photographs dated 18 January 2019 annotated "Existing Photographs – Photographs" numbered 1,2 and 3, respectively.
 - The requirements of the notice are (i) Dismantle the alterations and enlargements made to the front elevation and front roof plane and reinstate the dwelling to its condition prior to the breach in the form, and incorporating external materials and finishes, in accordance with the attached documents: a) Plan by Building Design Solutions submitted as part of the retrospective planning application reference 18/02089/FUL to retain the development, annotated "Drawing No./001; Scheme: Proposed New Front Elevation; Title: Existing Elevations and Layout." b) Photographs of the dwelling prior to the unauthorised development sourced from Google Street View dated October 2016, annotated "Pre-existing Photographs – Photographs" numbered 1, 2 and 3, respectively.
 - The period for compliance with the requirements is 6 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. 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.
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Decisions

1. Appeal A and Appeal B are dismissed, 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.

Ground (a) and the deemed planning application

Main Issue

2. The main issue is the effect of the development on the character or appearance of the conservation area.

Reasons

Policy and statutory background

3. The development plan comprises the City of Sunderland Unitary Development Plan (UDP), which was adopted in 1998. UDP Policy B4 states that all development within and adjacent to conservation areas will be required to preserve or enhance their character or appearance. The text accompanying this policy gives special regard to 'such matters as scale, height, form, massing, respect for the traditional pattern of frontages, vertical or horizontal emphasis, and detailed design (e.g. the scale and spacing of window openings and the nature and quality of materials)'.
4. UDP Policy B6 similarly seeks to protect conservation areas, and its accompanying text highlights that it is the particular quality of an area as a whole which imparts conservation area status. It also places importance on the retention of vistas along streets and between buildings.
5. Although the UDP predates the National Planning Policy Framework (NPPF) by some considerable time, these policies are generally consistent with it in their aim to protect heritage assets. Crucially, however, the NPPF introduces the balance that is to be drawn in the decision-making process between any harm to heritage assets and any public benefits that might accrue from a development scheme.
6. The UDP policies are amplified by the Council's document entitled 'Supplementary Planning Guidance - Ashbrooke Conservation Area Character Study' (SPG). Within the SPG, Policy ASH4 sets out general design criteria for all forms of new development within the Ashbrooke Conservation Area (CA).
7. Finally, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas in the exercise of planning functions.

The conservation area and the appeal site

8. The CA was designated as a fine example of a Victorian suburb, located to the south of Sunderland city centre. Residential Victorian terraces are the predominant built form in the area, and these are interspersed with a range of different building types and uses of a more varied character. Also important are the trees, parks and open green areas, which contrast with the built form and contribute to the leafy, spacious ambience of the area.
9. The appeal site is a detached dwelling set in its own grounds. I have been provided with limited information about its history, but it is described as the former groundsman's house to the Ashbrooke Sports Club. The property has been heavily altered over the years, as is clear from its planning history. However, prior to the development that is the subject of this appeal, the frontage retained a simple cottage character. Features included a traditional pitched pantile roof with an end chimney. The palette of materials was predominantly characterised by white rendered walls and a contrasting red from the pantiles and brick surround to the front door.
10. In terms of its context, I saw on my visit that Ashbrooke Cottage is clearly visible as one travels towards it from the south on Ashbrooke Road. This

approach is characterised by dense tree cover and long stretches of distinctive historic brick walling. These, and other brick boundary walls, are highlighted in the Council's 'Supplementary Planning Guidance – Ashbrooke Conservation Area Character Study' as making a significant contribution to Ashbrooke's character.

11. Despite the various alterations over the years, I am satisfied that, prior to the unauthorised development, the frontage of Ashbrooke Cottage sat comfortably and unobtrusively within this attractive setting, and made a positive contribution to the overall significance of the CA.

The appeal scheme and its impact

12. The development comprises the enlargement and remodelling of the front of Ashbrooke Cottage. Although the chimney and gable ends are still discernible, the front elevation and roof slope have been subsumed by an overtly modern design. The pitched roof has been replaced with a flat roof, and where timber boarding and grey tiling were previously minor elements within the frontage, these have now become the predominant materials. There is little evidence before me to show that these new elements are characteristic of front elevations in the CA.
13. The relatively simple, traditional form of the cottage has given way to a highly complex arrangement of elements involving different levels and varying degrees of set-back. It introduces a new built element whose materials and aesthetic approach have few visual cues in the vicinity of the appeal site. Even the simple visual link between the red colours of the brick wall and the pantile roof has been lost. The new extension draws the eye unduly as a result of its lack of integration with the design of the previous frontage and also its excessive bulk at high level, which can be seen above the boundary wall.
14. A deliberate contrast to an established building style can often be a successful design approach in historic areas. In this case, however, the contrast between the development and the former appearance of the cottage is stark. In departing so radically from the previous design of the building, the scheme is a highly incongruous addition that fails to harmonise with the CA. The new stretch of walling in front of Ashbrooke Cottage undoubtedly keeps in with its surroundings, and obscures the lower part of the elevation, but this does not mitigate the harm I have identified.
15. On my visit, I saw that the rear elevation of Ashbrooke Cottage has been developed in a contemporary style not dissimilar to the new frontage. It is evident that, with the exception of the NPPF, the policy context was the same when previous schemes at the appeal site were considered, and that the Council found the impact of these proposals to be acceptable on the CA. However, each development proposal is bound to be considered on its individual merits.
16. The rear elevation is less readily apparent from the public realm, and views of it are generally limited to those using the sports facilities behind the cottage. This elevation may also be visible from the backs of a number of houses in the surrounding area. However, views from these buildings would be relatively distant, and often at oblique angles, and so to my mind, they are not particularly significant.

17. By contrast, the upper section of the front facade is highly visible from the public realm, and is experienced at close quarters by those travelling along Ashbrooke Road. I am therefore satisfied that the visual context of the frontage is very different to that of the back. As a result, the impact on the CA of the front alterations is disproportionately greater than those to the rear.
18. The appellants argue that the part of Ashbrooke Road where the appeal site sits is on the periphery of the CA. Even if it is accepted that some aspects of the appeal site's surroundings are atypical of the core terraced streets, this is not an inherently negative circumstance. Instead, this is an attractive stretch of road whose character provides a pleasant contrast to the more built up areas. In my view, it is an inherently valuable part of the CA.
19. The development has not resulted in the loss of any roadside trees, and does not impact the Victorian terraces or landmark buildings, or any historic parks, green spaces, or key vistas. Nevertheless, it is clear from my reading of the development plan policies above that they apply to all development within the CA, even if it is in a more peripheral location, and does not directly affect the features mentioned.
20. Taking all of these factors in combination, I conclude that the development unacceptably harms the appearance of the appeal building, thus failing to preserve the character or appearance of the conservation area as a whole.
21. Accordingly, the development conflicts with the overarching statutory duty as set out in the 1990 Act, which must be given considerable importance and weight. In addition, the development fails to accord with UDP Policies B4 and B6 and SPG Policy ASH4, and conflicts with the purpose of the SPG, which is to protect the CA through the promotion of good design.
22. Although serious, the harm to the heritage asset in this case is less than substantial, within the meaning of the term in paragraph 195 of the National Planning Policy Framework (NPPF). Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 196 requires that, where a development would lead to less than substantial harm, the harm should be weighed against the public benefits arising from it.
23. I accept that the appellants' aim was to make the front of Ashbrooke Cottage match the rest of the property. However, this is a private benefit which does not weigh in favour of the appeal scheme.
24. I therefore find that insufficient public benefits have been identified that would outweigh the harm I have identified to the CA. The scheme therefore conflicts with the NPPF, which directs, at paragraph 193, that great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Ground (g)

25. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable.
26. I have no reason to doubt that the previous roof structure was at the end of its life and needed to be replaced. The works required to remedy the breach will

- involve the replacement of roof trusses, replacement dormers, and new facing materials. However, the appellants have not given any detailed explanation as to why 12 months should be needed to complete these works, which are confined to the front elevation and front roof slope.
27. I note also that the appellants are considering making a new planning application for an amended roof design. I am mindful that, were I to uphold the six month period sought by the Council, this would now begin in the winter months, with the possibility of poor weather. However, I see no reason why this time could not be used to draw up and submit new plans, in readiness for work to be undertaken in the spring months ahead.
28. Furthermore, substantial weight must be attached to the harm to the CA caused by the development. That harm should not be permitted to continue for any longer than absolutely necessary and so a 12 month period, which would be akin to a temporary permission, which not be appropriate.
29. In any case, I am mindful that the Council have the power to extend the compliance period, if they see fit. Whilst this is entirely a matter the Council's discretion, it would be open to the appellant to ask for a further extension of time, should it prove necessary.
30. The appeal on ground (g) therefore fails.

Conclusion

31. For the reasons given above, I conclude that both the appeals on ground (a) and ground (g) should fail, and that the deemed planning application should be refused.

Elaine Gray

INSPECTOR