



Appeal Decision

Site visit made on 30 December 2019

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th January 2020

Appeal Ref: APP/P1940/C/18/3212974

White Hill House, 8 Batchworth Heath, Rickmansworth WD3 1QB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mr Shamshudin Chogley against an enforcement notice issued by Three Rivers District Council.
 - The enforcement notice was issued on 28 September 2018 under ref. 18/0171/COMP.
 - The breach of planning control as alleged in the notice is: *"Without planning permission, the installation of two air conditioning units on the western elevation of the dwellinghouse (their approximate position is shown on the attached Site Map marked by an "X")"*.
 - The requirement of the notice is to:
"1. Permanently remove from the Land the two air conditioning units affixed to the western elevation of the dwellinghouse with their associated supporting structures and fittings (their approximate position is shown on the attached Site Map marked by an "X" and also shown at Photograph 1 attached to this Notice)."
 - The period for compliance with this requirement is two months.
 - The appeal is proceeding on the ground 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 section 177(5) of the 1990 Act as amended.
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Decision

1. It is directed that the enforcement notice be corrected in paragraph 2 by altering the postcode WD3 1BQ to WD3 1QB. Subject to the correction, the appeal is 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.

Preliminary matters

2. In the decision above, I have corrected the postcode of the address of the subject Land at paragraph 2 of the notice so that it follows the one in the heading above. The incorrect postcode did not prevent the appellant from lodging an appeal well before the notice was due to take effect and the Council says that the notice was, in any event, correctly served on the owner in person. This correction to the notice should be self-explanatory and should not result in any injustice to the parties.
3. The air conditioning unit fixed to the eastern elevation of White Hill House is not attacked by the enforcement notice.

4. The appeal site lies within the Green Belt. There has been no suggestion that the two subject air conditioning units fixed to the western elevation of White Hill House would amount to inappropriate development in the Green Belt or result in any other harm to the Green Belt. I see no reason to take a different view. I make no further comment on the Green Belt.

The appeal on ground (a) and the deemed planning application

5. The main issue is whether the two air conditioning units fixed to the western elevation of White Hill House preserve or enhance the character or appearance of the Batchworth Heath Conservation Area (BHCA), within which the appeal property is also located.
6. The appeal concerns a sizeable detached two-storey house situated in a very prominent location at the junction of White Hill and the cul-de-sac serving 8-13 Batchworth Heath.
7. The BHCA is a designated heritage asset of some significance. From reading the BHCA Appraisal January 2013, its special character is largely derived from the interesting mix of different buildings set within a distinctly rural locality, with many of the buildings facing directly towards the ancient green Heath which acts as a focal point and as an important backdrop. The appeal property has a traditional brick and tile finish, sits sympathetically within its rural surroundings and makes a positive contribution to the character, appearance and significance of the BHCA.
8. Even though the two subject *Mitsubishi Inverter* air conditioning units have no doubt been professionally installed, they have been fixed by brackets about halfway up the western flank wall of the house between the two upper floor windows and the two ground floor windows. This is an extremely prominent elevation as it faces directly towards White Hill only a short distance away and can be easily viewed from the Heath to the west, including from the footpath across it.
9. Whilst mature evergreen vegetation limits the visibility of the development on the approach along White Hill from the north, the two air conditioning units are visually prominent in views from within the BHCA on the approach along White Hill from the south and from the Heath to the west. They have a box-like form and project well beyond the face of the building in an elevated position. This draws further unwelcome attention to their modern, utilitarian appearance. They appear as rather stark and obtrusive features which have little visual affinity with the traditional external appearance and materials of the appeal property or more generally with the locally distinctive and pleasant rural surroundings of the site. Consequently, this poorly sited, unsympathetic machinery detracts from the character and appearance of the BHCA.
10. The external addition of some modern household equipment, such as air conditioning units, in prominent locations, can be a cumulative process which, if left unchecked, would be very damaging to the conservation of the built heritage and the historic environment. The Council could be rightly accused of double standards in the context of this appeal if it had granted planning permission for the installation of air conditioning units on the roadside elevations of other properties in the BHCA in the recent past.

There is no evidence before me to suggest that the Council has granted any such planning permissions. Moreover, I have not been referred to any other such visible installations in the BHCA.

11. I have taken into account the appellant's apparent willingness to cover the air conditioning units in some way. This was raised at the final comments stage. However, no fully worked out alternative scheme or plans have been submitted for consideration and it is impossible for me to judge whether such an approach would overcome the harm to the designated heritage asset that I have identified.
12. I find that the enforcement notice correctly asserts that the air conditioning units, due to their siting, colour and utilitarian appearance, result in an obtrusive and incongruous form of development which has a harmful impact upon the character and appearance of the BHCA. There has been a failure to preserve or enhance the character or appearance of that conservation area. I attach considerable importance and weight to this matter given my statutory duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The significance of the designated heritage asset – the conservation area – has been diluted.
13. The development fails to respect Policies CP1 and CP12 of the Council's Core Strategy October 2011 and Policy DM3 of the Council's Development Management Policies Local Development Document July 2013 which when read together place emphasis upon high quality design and the need to protect and seek opportunities to enhance the historic environment, including the character and appearance of conservation areas.
14. In terms of the National Planning Policy Framework (the Framework), the magnitude of the harm to the significance of the designated heritage asset may properly be considered to be less than substantial. That being so, paragraph 196 of the Framework requires that this harm should be weighed against the public benefits of the development including, where appropriate, securing the optimum viable use of that asset. The appellant has not really articulated any points in this appeal that could be included as a public benefit, bearing in mind that public benefits should flow from the development and be of a nature or scale to be of benefit to the public at large and not just be a private benefit. There are no public benefits identified that can be considered to outweigh the harm I have found.
15. The air conditioning units were installed because members of the household are said to suffer from serious medical issues which are exacerbated by heat especially on extremely hot nights where sleep is disturbed. The appellant points to the extreme levels of heat being experienced in the UK over the last several years. These private health concerns represent an important material consideration which I do not dismiss lightly and it would seem that the air conditioning units have helped to enhance the internal living conditions in the property. However, I am rather surprised to see that there is no corroborative evidence from a medical professional (for example the family GP) which would confirm the vital importance of these two particular air conditioning units. Moreover, there is no technical evidence to suggest that air conditioning units are the only means of achieving cooler temperatures in the house or if they are, whether alternative, less visually obtrusive solutions were considered or

are available. This tempers the weight that I can attach to these private benefits. Paragraph 193 of the Framework indicates that great weight should be given to a designated heritage asset's conservation when considering the impact of development upon its significance. Like the Council, I deem that the balance of judgment therefore remains in favour of the preservation of the conservation area.

16. I find on the main issue that the unauthorised development does not preserve or enhance the character or appearance of the BHCA. There is conflict with the development plan and I find no other material considerations of sufficient weight to justify a grant of planning permission. I conclude that the appeal on ground (a) should fail and that planning permission should not be granted on the deemed planning application.

Andrew Dale

INSPECTOR