



Appeal Decision

Site visit made on 28 January 2020

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 22 February 2020

Appeal Ref: APP/C2708/C/19/3230902

1 Ivy House Cottages, South Street, Gargrave, Skipton BD23 3RT

- 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 Mrs Nancy Harrison against an enforcement notice issued by Craven District Council.
 - The enforcement notice was issued on 9 May 2019.
 - The breach of planning control as alleged in the notice is: without the benefit of planning permission, the construction of a large timber summer house on the site.
 - The requirements of the notice are: Step 1 – Permanently remove (and keep removed) the timber summer house (specified in paragraph 3 of the enforcement notice) from the site (and note that the summer house may not be relocated to any other property within Ivy Cottages). Step 2 – Reinststate the wall to the rear of the timber summer house (specified in paragraph 3 of the enforcement notice).
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) (e) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

The appeal on ground (e)

2. The ground of appeal is that the notice was not served as required by s172 of the Act. S172(2) of the Act provides that a copy of the notice shall be served on the owner and occupier of the land to which it relates, and any other person having an interest in the land, including mortgagees, tenants and sub-tenants.
3. Both Mr Thomas and Mrs Nancy Harrison own and use the appeal site at 1 Ivy House Cottages. However, the enforcement notice was served on Mrs Harrison, the appellant, at 2 Ivy House Cottages, but not on her husband, Mr Harrison.
4. The Council confirm that the land is not registered with HM Land Registry. Mrs Harrison was the sole applicant named on the application form seeking planning permission for the summer house (ref: 2017/18557/HH). The declaration section of the application form confirmed Mrs Harrison as the sole owner. I am therefore satisfied that the Council acted on the basis of the evidence before them. Whilst it appears that Mr Harrison has an interest in the

land, there remains little documentary evidence to confirm the nature of the interest.

5. Moreover, even if the notice was not correctly served, section 176(5) permits failure to serve any person as required by section 172 to be disregarded if neither they nor the appellant have been substantially prejudiced by that failure. The Council confirm that Mr Harrison was present when the enforcement notice was served by hand to Mrs Harrison. The appellant does not dispute this, and so I am satisfied that Mr Harrison has been aware of the notice, and has had the opportunity to participate in the proceedings.
6. It cannot, therefore, be said that Mr Harrison has suffered any prejudice as a result of any failure to comply with the rules concerning service. There is no suggestion that any other person may have been prejudiced. I conclude, therefore, that in the circumstances of this case, any failure in terms of service of the enforcement notice may be disregarded.

The appeal on ground (a)

Preliminary Matters

7. Following the serving of the enforcement notice in May 2019, the Council have adopted the new Craven Local Plan (LP) in November 2019. I have therefore considered the appeal on ground (a) against the relevant policies in that document.
8. The Council refer to the setting of two listed buildings, one of which is the grade II listed 11 South Street. However, from my observations, I am satisfied that, due to the degree of separation between it and the appeal site, and their lack of intervisibility, the development has a negligible effect on the setting of No 11. I have therefore not considered this matter further in my reasoning.

Main issue

9. The main issue is the effect of the development on the setting of Ivy House Farm, a grade II listed building, and whether it would preserve or enhance the Gargrave Conservation Area.

Reasons

10. Ivy House Farm is a grade II listed building. It is described as a two-storey, three bay house dating from the early 19th century. It is rendered, with a stone slate roof and two moulded chimneys. Features of the main front elevation include large sash windows, and an off-centre main entrance, which comprises a six-panelled door and overlight within a pilaster doorcase.
11. The rear is dominated by an unrendered extension with stone walls and a cat-slide roof. The elevation is plainer than the public frontage, and the chimneys and large slate roof are prominent features. As a whole, Ivy House Farm is an attractive example of a modest farmhouse of its period. Although it has undergone some alterations, its original form, dimensions and design remain apparent. These characteristics all contribute to the significance of the heritage asset.
12. The appeal site is within the garden of 1 Ivy House Cottages, one of three dwellings that were converted from a former barn building that adjoins Ivy House Farm. These properties are not listed, and have been altered over the

- years, but their association with the listed building still contributes to the understanding of its context and function.
13. The appeal site is also located in the Gargrave Conservation Area (CA), which encompasses the built-up centre of the village, and also more open spaces to the north and south, comprising a mixture of commercial, residential and other land uses. Its significance lies in its surviving historic plan form, the interrelationship of streets and spaces, and in the range of age and styles of its buildings. The planning officer's report highlights the contribution of the buildings on River Place and South Street, which form an aesthetically important group around the green. As part of this group, the appeal site makes a positive contribution to the significance of the CA.
 14. The National Planning Policy Framework (NPPF) describes setting as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
 15. The new summer house is located on a highly visible corner position to the rear of the appeal property. It has a footprint of approximately 2.9m by 3.2m, and a pitched roof rising to a total height of around 3m, according to the Council, or 2.9m, according to the appellant. The garden has a low boundary wall, with the effect that the summer house is clearly visible in the wider area.
 16. I accept that the surrounding area is domestic and suburban in nature, and that outdoor space at the site is limited. However, LP Policy ENV3 requires that designs should respect the form of existing and surrounding buildings, with regard to scale, height and massing. Although the listed building is two-storey in height, it is low and of a smaller scale than many of its neighbours. Therefore, the summer house appears disproportionately large in relation to the modest scale of Ivy House Farm. Due to its prominent location, it dominates views of the rear elevation of Ivy House Farm, drawing the eye away from its architectural features.
 17. In terms of materials, the elevations are faced in vertical timber boarding, and the roof is finished in timber tiles. The windows and doors are uPVC, and a large roof light has been provided. These materials are not in keeping with the mellow stonework and slate roof of Ivy House Farm. Instead, they provide a discordant visual contrast with the listed building, thus detracting from its setting.
 18. Drawing these factors together, I consider the overall effect of the development to be of detriment to the setting of Ivy House Farm, thus harming its significance. The adverse effect of the development in the street scene is apparent from views within the CA from the green, thus unacceptably harming its wider character and appearance.
 19. The appellant argues that the breach of control is a minor one, and that if the ridge of the roof were 40cm lower, the summer house would come within permitted development (PD) rights. However, such a structure would, by definition, be lawful and so would not fall to be considered against the relevant development plan policies. Therefore, this matter has not led me to a different conclusion on the main issue under ground (a).

20. Accordingly, overall, the development conflicts with the overarching statutory duty as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, which must be given considerable importance and weight, and with the NPPF. Paragraph 194 of the NPPF confirms that significance can be harmed or lost through development within the setting of a heritage asset. In addition, the scheme would fail to comply with LP Policy ENV2, which seeks to conserve the historic environment, and LP Policy ENV3, which promotes good design.
21. Although serious, the harm to the heritage assets in this case would be less than substantial, within the meaning of the term in paragraph 195 of the NPPF. Paragraph 196 requires that, where a proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal.
22. I acknowledge Mr Harrison's need to store his mobility scooter in the summer house, due to the difficulty of having it in the main dwelling. However, this is a private benefit, and so does not count in favour of the appeal scheme. In any case, I see no compelling reason why the scooter could not be kept in a structure that fell within PD limits. Indeed, the appellant indicates that the ridge height could very feasibly be adjusted to bring the development within PD parameters. I note the appellant's suggestion that a personal permission could be granted. However, in view of the ongoing harm to the CA and the setting of the listed building, and the availability of an alternative solution, I do not consider that this measure would be appropriate in this case.
23. I therefore find that insufficient public benefits have been identified that would justify or outweigh the harm I have identified to the heritage assets. The harmful elements of the scheme therefore conflict with the NPPF, which directs, at paragraph 193, that great weight should be given to the assets' conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance.
24. The appeal on ground (a) therefore fails.

The appeal on ground (g)

25. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. Whereas the notice specifies three months, the appellant argues that 12 months should be allowed.
26. I accept that neither the appellant nor her husband are physically able to dismantle the summer house and remove it. In view of this circumstance, the appellant contends that she needs a longer time period to arrange for a third party to dismantle and remove the summer house. However, the structure appears to be relatively lightweight in terms of materials, and there is no evidence to show that it would be particularly complex or time-consuming to remove. In the appellant's statement of case, it is argued that such structures are readily dismantlable. In the absence of any detailed explanation as to why it should take more than three months to organise such a task, I consider the time period to be reasonable in this regard.
27. The appellant also raises concerns over the need to find an alternative location for her husband's disability scooter before the summer house is removed. She states, for example, that further applications might be made for a smaller building. As discussed above, however, the existing building could be adjusted

in height to fall within PD limits. Such a solution would not need planning permission and so it is unclear why additional time would be needed for discussion. In any case, a 12 month period would be tantamount to a temporary permission, which would be unacceptable in view of the harm to the heritage assets that I have identified above.

28. On the evidence before me, I therefore consider the period of three months to be a reasonable period in which to comply with the requirements of the notice. As a result, the appeal on ground (g) fails.

Conclusion

29. The appeal is dismissed, and the enforcement notice is upheld.

Elaine Gray

INSPECTOR