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## Appeal Decision

Site visit made on 7 January 2020

**by Felicity Thompson BA(Hons) MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 March 2020**

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**Appeal Ref: APP/Z4718/C/19/3231886**

**7 Lake View, Armitage Bridge, Huddersfield HD4 7NX**

- 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 Clive Adamson against an enforcement notice issued by Kirklees Metropolitan Council.
  - The enforcement notice was issued on 22 May 2019.
  - The breach of planning control as alleged in the notice is without planning permission the unauthorised erection of a conservatory (in a conservation area).
  - The requirements of the notice are: within 3 months of the date that this notice takes effect demolish the unauthorised conservatory and within 4 months of the date that this notice takes effect remove the resultant debris from the land.
  - The period for compliance with the requirements is 3 months and 4 months as set out above.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) (c) and (g) of the Town and Country Planning Act 1990 as amended.
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### Decision

1. 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.

### Preliminary Matter

2. The appeal site has a planning history which includes an application for the erection of the conservatory, the subject of this appeal, which was refused by the Council and subsequently dismissed at appeal<sup>1</sup>. The appeal before me relates to the same development and consequently it is against this background that I have considered the ground (a) appeal.

### The appeal on ground (c)

3. In this appeal, the onus is upon the appellant to show that, on the balance of probabilities, the matters alleged in the notice do not constitute a breach of planning control.
4. Article 3 Schedule 2 Part 1 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) sets out permitted development rights for the enlargement, improvement or other alteration of a dwellinghouse subject to certain conditions and limitations. Paragraph A.1 (e) provides that development is not permitted by Class A if the

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<sup>1</sup> APP/Z4718/D/19/3227847

- enlarged part of the dwellinghouse would extend beyond a wall which (i) forms the principal elevation of the original dwellinghouse.
5. The GPDO and the Government's Permitted development rights for householders: Technical Guidance (the Technical Guidance) defines 'original' as a building as it existed on 1 July 1948 where it was built before that date and as it was built if built after that date.
  6. The appellant argues that the conservatory has not been erected on the principal elevation of the house, as the main entrance to the house faces Back Armitage Road, with the associated parking on this road. Further, that this is the same for all the homeowners on the road as they have always considered the elevation onto Back Armitage Road as the principal elevation. The Council considers the principal elevation of the house to be the broadly north east facing elevation which faces the mill pond.
  7. Principal elevation is not defined in the GPDO but the Technical Guidance states that in most cases the principal elevation will be that part of the house which fronts directly (or at an angle) the main highway serving the house. It says that it will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. It also states that usually, but not exclusively, the principal elevation will be what is understood to be the front of the house.
  8. The appeal property is a traditional 19<sup>th</sup> century mid-terrace house. Neither party has provided details or plans purporting to show the 'original' layout or elevations of the house. The terrace is located off the main road which runs through the village separated by intervening terraces, with vehicular access off Back Armitage Road and a footpath which runs in front to the north east of the terrace.
  9. The houses have a straightforward appearance and include no overt or grand architectural features however, the north east elevations, with the exception of some small modern additions, have a reasonably uniform and simple appearance with a door and window to one side and two windows above. The south west elevations, facing Back Armitage Road, have been much altered with extensions of one and two storey and there is little if any uniformity remaining in the appearance of these elevations. The south west elevations of those terrace houses on Club Houses and Royd Terrace have a similar appearance to the north east elevations of those on Lake View, with their north east elevations being much altered.
  10. From what I saw on site, it is my view that the principal elevation of the 'original' dwellinghouse is the north east elevation. It contains what would have been the primary entrance to the house and principal windows to the main habitable room, overlooking the fore garden and mill pond.
  11. My judgement is not altered by the appellant's submissions referring to the point of vehicular access, that the south west elevations of the houses contain letterboxes, house numbers/names and is where the bins are stored and how the properties are marketed by estate agents, as these relate to how the houses are occupied now and do not address the consideration of what is the principal elevation of the 'original' house.

12. I therefore conclude that the conservatory extends beyond a wall which forms the principal elevation of the original dwellinghouse and consequently does not constitute permitted development. The appeal on ground (c) therefore fails.

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

13. The main issue is whether the conservatory preserves or enhances the character or appearance of the Armitage Bridge Conservation Area.
14. The appeal property consists of a traditional 19<sup>th</sup> century modest two storey mid-terrace house constructed from stone under a stone slate roof located in the Armitage Bridge Conservation Area. Armitage Bridge is a former mill village with many traditional buildings, including mill buildings remaining, albeit now in alternative uses. Consequently, the area has a strong and attractive, well maintained historic character and appearance.
15. The appeal property and houses in this and surrounding terraces would have provided housing for workers at the mill. Despite some small additions to the principal elevations of the houses and larger additions to the rear, the houses in this and surrounding terraces largely retain their simple historic appearance and make a positive contribution to the significance of the Conservation Area.
16. The conservatory, subject of the appeal, projects from the principal elevation of the house by around 3m with a similar width. Notwithstanding the use of stone to match the existing house, because of its width, depth and hipped roof form, which does not reflect the traditional pitch roof of the existing or surrounding houses, the conservatory appears as a dominant and incongruous addition at odds with the simple form of the existing house. The conservatory therefore causes harm to and does not preserve or enhance the character or appearance of the Conservation Area.
17. The Council have no appraisal for the Conservation Area however, I have reached my conclusions on the merits of the development based upon my site observations and the evidence before me.
18. Surrounding fences provide only limited screening, insufficient to mitigate the harm. Whilst the conservatory was designed with permitted development rights in mind and I acknowledge there is no harm to the living conditions of neighbours and note third party representations of support, these are neutral matters that do not outweigh the identified harm.
19. The appellant states that there are other extensions and conservatories which are not in keeping with the streetscene. Whilst I observed a number of extensions to the front of houses in the terrace, I do not know the circumstances of those being permitted. In any event, none are as large and conspicuous as the appeal development and as such are not directly comparable.
20. Given the scale of the appeal development within the context of the Conservation Area as a whole, I consider the harm to be less than substantial. Nevertheless, I am mindful that in the National Planning Policy Framework (the Framework) paragraph 193 says great weight should be given to the conservation of a designated heritage asset and any harm to such assets should require clear and convincing justification.

21. Paragraph 196 states that where a proposal would lead to less than substantial harm to the significance of such an asset, that harm should be weighed against the proposal's public benefits including, where appropriate, securing its optimum viable use. This requires a balancing exercise of harm against the public benefits of the proposal. In this case reference has been made by the appellant to the benefits of providing much needed additional space and of the removal of a poorly constructed timber porch.
22. Whilst I understand the wishes of the appellant to provide more accommodation for their family it seems to me this is a private benefit, so this is of limited weight.
23. I note that the conservatory is considerably larger than the single storey extension it replaced. Some limited images of the former extension have been provided and whilst that extension was not of any particular design merit, it was well-proportioned relative to the house. Moreover, given that extension has been demolished, any affects that it previously had on the character and appearance of the Conservation Area no longer exist. Its former presence therefore carries limited weight.
24. Consequently, the public benefits do not outweigh the great weight that I am required to attach to the heritage asset's conservation. Overall, I conclude that the development does not accord with the design and heritage protection aims of Policies LP 24 and LP 35 of Kirklees Local Plan Strategy and Policies Adopted 27 February 2019 which together require development to promote good design by ensuring the form, scale, layout and details of all development respects and enhances the character of heritage assets and preserves or enhances the significance of the asset. It also fails to accord with national policy which seeks to conserve and enhance the historic environment.

#### *Other Matters*

25. I have considered the appellant's comments regarding the actions of the Council and the advice given. However, this is a matter that is between the appellant and the Council and it is open to them, should they wish, to make use of the Council's own complaint procedure to resolve the matter.

#### *Conclusion*

26. For the above reasons and with regard to all other matters raised, I conclude that the appeal on ground (a) should not succeed.

#### **The appeal on ground (g)**

27. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant stated that the four months given in the notice is too short and suggests that a minimum of eight months, ideally 12 months would be more appropriate to enable for a contractor to be secured to undertake the works.
28. The purpose of the time period within an enforcement notice is to allow for the physical works associated with the notice to be removed. The appellant's submission largely relates to the time before the works can commence - when a contractor can be appointed. Whilst the appellant's concerns are understandable, in the absence of a substantive explanation, given the relatively straightforward nature of the construction, the removal of which

would have little effect on the remaining internal living accommodation, I consider the period of three months for the demolition of the conservatory and four months to remove the resultant debris from the land as specified in the notice is proportionate to the breach of planning control that has occurred.

29. Accordingly, the appeal on ground (g) therefore fails.

### **Conclusion**

30. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*Felicity Thompson*

INSPECTOR