



Appeal Decisions

Site visit made on 10 June 2020

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2020

Appeal A Ref: APP/N4720/C/19/3243375

Appeal B Ref: APP/N4720/C/19/3243376

Land at 14 Ridge Close, Guiseley, Leeds LS20 8JJ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- Appeal A is made by Mr Damon Bull and Appeal B is made by Mrs Alison Bull against an enforcement notice issued by Leeds City Council.
- The enforcement notice was issued on 28 November 2019.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a rear dormer roof extension.
- The requirements of the notice are:
 - Step One - Dismantle and completely remove the unauthorised dormer and remove all the materials used in the construction of the dormer and reinstate the part of the roof where the unauthorised dormer was removed with roof tiles and materials to match the existing dwellinghouse.
 - Step Two - Remove from the site any materials, rubbish and equipment resulting from the compliance with Step One.
- The period for compliance with the requirements is two months.
- Appeal A is proceeding on the grounds set out in section 174(2) (a) (f) and (g) of the Town and Country Planning Act 1990 as amended.
- Appeal B proceeding on the grounds set out in section 174(2) (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of decisions: Appeal A is dismissed, and the enforcement notice is upheld with variations in the terms set out below in the Formal Decision.

Appeal B succeeds in part and the enforcement notice is upheld with variations in the terms set out below in the Formal Decision.

FORMAL DECISION

1. It is directed that the enforcement notice is varied by:
 - (1) The addition of the following words to Step One of the requirements, after dwellinghouse: *Or, carry out remedial works to the dormer so that it complies with the terms of planning permission reference 18/04550/FU, dated 21 November 2018.*
 - (2) Substituting six (6) months for two (2) months as the period for compliance.
2. Subject to these variations, 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.

Appeal A on ground (a) and the deemed planning application

3. The main issue is whether the development preserves or enhances the character or appearance of the Tranmere Park Estate Conservation Area (TPCA).
4. As set out in the Tranmere Park Estate Conservation Area Appraisal and Management Plan (the Conservation Area Appraisal), the overriding character of the TPCA is suburban, being made up of low-density housing on spacious plots within mature gardens and is highly distinctive as a pioneer of early middle-class suburban living. There is a broad range of architectural styles generally based on the Arts and Crafts and English Vernacular style.
5. The appeal dwelling is a relatively large well-maintained detached property, surrounded by similarly large detached dwellings of varying design, set within mature gardens on a cul-de-sac which forms part of the 1950s – 1970s phase of development. The dwelling makes a positive contribution to the significance of the TPCA, acknowledged by its designation as a positive building in the Conservation Area Appraisal.
6. The Conservation Area Appraisal acknowledges that many houses have been altered and modernised, many sensitively, but some changes have begun to erode the special architectural and historic interest of the TPCA including overly large and insensitive extensions.
7. The dormer extension, as built, extends to the height of the main ridge, is positioned relatively close to the eaves and occupies a significant proportion of the roof slope. As a result of its scale and box-like form, the dormer has a 'top heavy' and dominant appearance within the roof slope, poorly related to the dwellings character and style. Consequently, the dormer adversely affects the appearance of the dwelling and detracts from its contribution to the TPCA. As such, it follows that the development fails to preserve or enhance the character or appearance of the TPCA.
8. The appellant argues that the dormer is barely visible from the streetscene except for fleeting glances between properties. However, I observed that whilst the rear elevation of the dwelling is not readily seen in wider public views, the dormer is discernible in views between dwellings on Ridge Close and Ridgeway because of its elevated position. In such views and from the rear windows and gardens of neighbouring and surrounding houses the dormer appears as a discordant and unduly prominent feature. Moreover, I am mindful that the statutory requirement relating to the desirability of preserving or enhancing the character or appearance of conservation areas is not dependent on public views of relevant changes.
9. Planning permission was previously granted for a dormer window to the rear of the dwelling (ref: 18/04550/FU). However, the dormer that has been built is materially larger than that approved, and I consider that the differences are perceptible.
10. The Council stated that the appellant advised that a larger structure was required due to internal constraints and consequently, it is not clear whether the permitted scheme could be implemented. Nevertheless, and regardless of whether the decision to approve the application was finely balanced, there is an extant planning permission and therefore a potential fallback position to which

I attach significant weight. However, the approved dormer is not as wide or tall as that built and would appear as a subordinate addition to the roof. Consequently, I consider the fallback would be less harmful than the appeal scheme.

11. My duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving or enhancing the character or appearance of a conservation area. Whilst not all elements of a conservation area necessarily contribute to its significance and the character of the TPCA is not derived from the presence of numerous listed buildings, the harm to the appearance of the dwelling and visual qualities of the area identified above, also translates into harm to the wider character and appearance of the TPCA.
12. Given the scale of the proposal within the context of the Conservation Area as a whole and that the impact is relatively localised in its extent, 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.
13. 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 development. In this case the appellant has not suggested, nor do I consider there are any public benefits associated with the dormer.
14. Consequently, there are no public benefits to 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 P10 and P11 of the Leeds Core Strategy Adopted November 2014, Policies GP5, BD6 and N19 of the Leeds Unitary Development Plan (Review 2006) and Policy HDG1 of the Householder Design Guide Supplementary Planning Document April 2012. It also fails to accord with national policy which seeks to conserve and enhance the historic environment.

Other Matters

15. Concerns have been raised by a third party about loss of privacy. However, given the angles and substantial distances between the windows in the dormer and those in neighbouring dwellings, I find that there is no harm as a result of loss of privacy. Furthermore, the dwellings are located in a suburban environment where some mutual overlooking of gardens is inevitable. I note that the Council identified no harm in this regard.
16. For the reasons given above the appeal under ground (a) is dismissed and the deemed planning application is refused.

The appeals on ground (f)

17. An appeal on ground (f) is a claim that the requirements of the notice exceed what is necessary to remedy the breach of planning control, or, as the case may be, to remedy any injury to amenity resulting from the breach.

18. Section 173 of the Act indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first s173(4)(a) is to remedy the breach of planning control which has occurred. The second s173(4)(b) is to remedy any injury to amenity which has been caused by the breach.
19. In this case the enforcement notice requires the dormer to be dismantled and removed and the roof to be reinstated with roof tiles and materials to match the existing dwellinghouse. As such I find its purpose is to remedy the breach of planning control.
20. The appellants argued that as there is an extant planning permission for a smaller dormer, that it is unreasonable to require complete removal of the dormer and that a reasonable requirement would be for the scheme to revert to what already has planning permission.
21. The purpose of the enforcement regime is remedial rather than punitive. The Council did not argue that it would not be possible to modify the dormer in order to comply with planning permission reference 18/04550/FU. Nor has there been any indication from the Council that this permission is no longer extant.
22. While the requirements in the notice as issued do not exceed the purpose behind the notice, an obvious alternative would be to make the development comply with an extant planning permission which would remedy the breach of planning control. There would also be less cost and disruption than as a result of total demolition.
23. I therefore find that it would be reasonable to vary the notice, to require that either the dormer be dismantled and removed or, that it is modified to comply with the aforementioned planning permission. I am satisfied that varying the notice on this basis would cause no injustice to either of the main parties.
24. I shall vary the requirements to reflect my findings on this matter and to this extent the appeals on ground (f) succeed.

The appeals on ground (g)

25. The appeals on ground (g) are that the period for compliance with the notice falls short of what is reasonable. The appellants stated that the two months given in the notice is too short and would not be enough time to obtain quotes from builders and for the work to be carried out. They stated that a six-month period would be more reasonable.
26. The Council in their statement, commented that they would be happy, in light of the current public health emergency, for the compliance period to be extended to six months. I consider this would be an adequate period in which to either dismantle the dormer and reinstate the roof or implement the works to comply with the extant permission.
27. Consequently, in light of the current public health emergency and agreement between the parties, I conclude that it is reasonable and proportionate to extend the period from two to six months. To this extent the ground (g) appeals succeed.

Conclusion

28. For the reasons given above, I shall uphold the enforcement notice with variations 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