The Planning Inspectorate

Appeal Decision

Site visit made on 9 June 2020

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 July 2020

Appeal Ref: APP/C4235/C/19/3243794
Land at 12 Moorfield Grove, Heaton Moor, Stockport SK4 4BQ

- 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 Chris Redding against an enforcement notice issued by Stockport Metropolitan Borough Council.
- The enforcement notice, numbered 19/00294/UNC, was issued on 16 December 2019.
- The breach of planning control as alleged in the notice is without the benefit of planning permission, the installation of a satellite dish to the front elevation of the dwellinghouse, which lies in a conservation area.
- The requirements of the notice are to:
    1. Remove the satellite dish together with all supporting brackets and cable from the front wall of 12 Moorfield Grove, Heaton Moor, Stockport SK4 4BQ.
    2. Make good any damage caused by the attachment of the satellite dish and brackets on the front wall of 12 Moorfield Grove, Heaton Moor, Stockport SK4 4BQ using materials of an exact match to the existing brickwork.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2) (c) of the Town and Country Planning Act 1990 as amended.

Decision

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

The appeal on ground (c)

2. The appeal is proceeding on the ground that the matters alleged in the notice do not constitute a breach of planning control. Section 57 of the 1990 Act as amended states that planning permission is required for development. Section 55(1) of the Act states that development means the carrying out of building, engineering, mining or other operation in, on, over or under land, or the making of any material change in the use of any buildings or other land. A building is defined by Section 336 of the 1990 Act as including any structure or erection and any part of a building, but not the plant and machinery comprised within a building. A satellite dish as a matter of fact and degree falls within the scope of these definitions and requires planning permission. Section 58 of the Act states that planning permission may be granted by development order.

3. The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) Article 3, Schedule 2, Part 1, Class H permits the installation, alteration or replacement of a microwave antenna on a dwellinghouse subject to conditions. Permitted development rights under this Class can be withdrawn by the local planning authority under Article 4(2) of the

GPDO where (a) the land is in a conservation area; and (b) the part of the building or other structure on which the microwave antenna is to be installed, altered or replaced fronts a highway.

4. The Council has provided a copy of the Article 4(2) Direction which is confirmed and includes the installation, alteration or replacement of a satellite antenna on a dwelling house, or within the curtilage of a dwelling house, where the installation, alteration or replacement fronts a relevant location under Class H, Part 1 of Schedule 2 of the GPDO. The Council's published guidance note on the Article 4 Direction explains that 'Where properties are subject to an Article 4(2) Direction planning permission is required where the proposed development fronts onto, or is visible from, a relevant location; 'Relevant location' means a highway (including footpaths), waterway or open space'.

5. I note the appellant's contention that having viewed the Council's website, the Article 4 Direction and the published guidance that the information did not expressly indicate that planning permission would be required for the satellite dish. However, the Article 4 Direction does include the installation of satellite antenna and refers to the relevant Class of the GPDO. The Article 4 Direction does therefore withdraw the permitted development right and planning permission is required for the development as alleged.

6. The appellant also indicates that Moorfield Grove is private land and questions the legal right for people to pass and re-pass for it to constitute a highway for the purposes of applying the 'Relevant location' definition in this case. The Council has provided the definition of what comprises a 'highway' and this includes a route which all members of the public can pass and re-pass whether it be adopted, unadopted or over private land. Moorfield Grove is a through route to Park Grove and Birch Avenue and I agree with the Council that as a matter of fact and degree it constitutes a 'highway' for the purposes of applying the 'Relevant location' definition.

7. I note that the appellant refers to other satellite dishes in the conservation area, however, the question I must address is whether the development enforced against constitutes a breach of planning control.

8. I conclude as a matter of fact and degree that planning permission is required for the development enforced against and there is no record of a planning permission being granted for the development as alleged.

9. The appeal on ground (c) therefore fails.

Iwan Lloyd

INSPECTOR