



Appeal Decisions

Site visit made on 30 June 2020

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 August 2020

Appeal A: APP/H0724/C/19/3242924

68 Grange Road, Hartlepool TS26 8JF

- 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 Ms Flora Russo, Forso Limited, against an enforcement notice issued by Hartlepool Borough Council.
- The enforcement notice was issued on 27 November 2019.
- The breach of planning control as alleged in the notice is Without planning permission, the installation of a replacement composite roof.
- The requirements of the notice are (i) Remove the existing composite roof tiles; (ii) Restore the roof to its condition before the breach took place.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Appeal B: APP/H0724/W/19/3242923

68 Grange Road, Hartlepool TS26 8JF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Ms Flora Russo, Forso Limited, against the decision of Hartlepool Borough Council.
- The application Ref H/2019/0169, dated 28 March 2019, was refused by notice dated 5 September 2019.
- The development proposed is Change of use to house in multiple occupation, installation of replacement windows and replacement roof (part retrospective).

Summary of Decision: The appeal is allowed in part and is dismissed in part as set out below in the Formal Decision.

Procedural Matters

1. With regard to Appeal B, I have taken the description of development from the Council's decision notice as reflected on the appeal form.
2. The Council has previously granted planning permission for the House in Multiple Occupation (HMO) use, subject to conditions¹. There is no dispute that both the plans and the Council's suggested conditions before me, relate to the same use. The Council does not seek to resist the HMO use, subject to these conditions, and I find no reason to take a contrary view. I shall therefore grant planning permission for this element of the Appeal B proposal.

¹ Ref H/2019/0490 – dated 15 January 2020

3. The appellant confirms that they no longer seek planning permission in relation to the replacement uPVC windows at the property. As such, I shall treat this element of proposed development as having been withdrawn. Accordingly there is no reason for me to consider the Council's decision to refuse planning permission for the windows. The appeal will therefore be dismissed with regard to this element of Appeal B.

Appeal A on ground (a) and Appeal B

Main Issue

4. Having regard to the above, the main issue is the effect of the replacement roof tiles on the character and appearance of the Grange Conservation Area (GCA).

Reasons

5. Policies HE1 and HE3 of the Hartlepool Local Plan 2018 (LP) are collectively concerned with conserving or enhancing the distinctive character of Conservation Areas; securing high quality design and ensuring that where development would lead to less than substantial harm to the heritage asset this will only be permitted where the harm would be outweighed by the public benefits of the proposal.
6. Policy HE3 refers, amongst other things, to the importance of the use of materials which are sympathetic to the character and appearance of the Conservation Area. It states that particular regard will be given to guidance in relevant Conservation Area appraisals.
7. The GCA is characterised by linear streets of predominantly housing. The appeal site forms part of a terrace of relatively uniform design and height, featuring two storeys with roof gables and attic rooms, buff coloured facing brick and ground floor bay windows. This gives rise to a strong sense of visual rhythm along the street.
8. In terms of the roofscape, The Grange Conservation Area Character Appraisal 2009 (GCACA) states that two traditional coverings predominate, namely Welsh slate and clay tiles, though recognises that artificial replacement slates have been used on a number of buildings. Nevertheless it draws a distinction between the qualities of natural Welsh slate and artificial replacement materials, noting the variations in the texture, shade and tone of the slate in contrast to the more monotone and reflective appearance of non-natural substitutes, which serves to harm the character.
9. From my visit it was apparent that the roof of the appeal property is prominent from the opposite side of Grange Road. Although similar to natural slate in terms of scale and colour, the introduction of the artificial roof tiles, with their uniform texture and shinier appearance, serves to erode the representation of natural roofing material in the GCA. It appeared to me that natural slate continues to be well represented on properties along Grange Road and remains a prominent feature in the appeal site terrace.
10. Furthermore, the shinier appearance of the artificial tiles in this case is at odds with, and disrupts the continuity of, the duller natural appearance of roof coverings on adjoining properties either side. When taking into account the significance of the GCACA in terms of adopted conservation policy for this area,

I do not consider the appellant has provided a compelling argument that the development would conform with guidance therein. Indeed the appellant acknowledges at paragraph 3.7 of their statement that there would be harm to the heritage asset albeit that, in their view, this would be limited in nature.

11. In accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 I have a statutory duty under Section 72(1) to pay special attention to the desirability of preserving or enhancing the character or appearance of the GCA. For the reasons set out above, I conclude that the development causes less than substantial harm to the character and appearance of the GCA. However in terms of the guidance in the National Planning Policy Framework (the Framework), there is still real and serious harm which is a consideration of significant weight.
12. In such circumstances, where harm is identified to the significance of a designated heritage asset, in this case the GCA, the Framework requires that this harm is weighed against the public benefits of the proposal. The appellant states that the previous slate roof covering was damaged and that the tiles were replaced in order to secure the building and ensure that it did not become uninhabitable. This in turn would bring the building back into use, allowing for increased surveillance and an improvement to the visual appearance of the building and street scene, therefore resulting in public benefits.
13. Whilst, I accept that the replacement tiles would inevitably have made the building more secure, it cannot be the case that this was the only way to achieve this objective. There is no reasonable explanation as to why the roof covering could not have been with natural slate whilst still achieving the same goal of securing the building and addressing the visual appearance of the roof. I therefore give very limited weight to this point. A convincing case has not been made that there would be public benefits from the scheme sufficient to outweigh the harm I have identified.
14. The appellant has also suggested that the cost of replacing the artificial tiles would be at the expense of replacing the existing windows with timber sash windows. However even if such a proposal was considered to have merit, there is no such proposal before me for timber window replacement or accordingly a means of ensuring that it was implemented. I therefore attach no weight to this consideration.
15. For the aforementioned reasons the development would be in conflict with the Framework and also with Policies HE1 and HE3 of the LP, insofar as they seek to conserve or enhance the distinctive character of Conservation Areas, including through the use of sympathetic materials.

Appeal A on ground (g)

16. The ground of appeal is that the time given to comply with the requirements is too short. The appellant requests six months in order to allow time for the determination of the s.78 appeal. However this argument is obviated by the fact that both appeals are being decided concurrently. This aside I am not persuaded that the 3-month compliance period given would be unreasonable. The ground (g) appeal therefore fails.

Conclusions

Appeal A

17. 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 deemed application.

Appeal B

18. For the reasons given above I conclude that the appeal should be allowed in part and dismissed in part. I am satisfied that the part of the development to be allowed, namely the HMO, is clearly severable from those elements that are to be dismissed.

Conditions

19. I have considered the Council's suggested conditions. Confirmation of the relevant plans and clarification that the permission does not include window and door alterations is required in the interests of certainty; details of a noise insulation scheme and refuse storage arrangements need to be agreed and implemented and the number of occupants of the HMO limited, in the interests of protecting the living conditions of neighbouring residents.

Formal Decisions

Appeal A

20. 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.

Appeal B

21. The appeal is dismissed and planning permission is refused for installation of replacement windows and replacement roof (part retrospective) at 68 Grange Road, Hartlepool TS26 8JF.
22. The appeal is allowed insofar as it relates to the proposed change of use of the property and planning permission is granted for Change of use to house in multiple occupation at 68 Grange Road, Hartlepool TS26 8JF in accordance with the terms of the application, Ref H/2019/0169, dated 28 March 2019 and subject to the conditions in the schedule below.

Roy Merrett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with plans Site Location Plan (scale 1:1250), Drwg. No MA/290519(00)01 'Existing Elevations', 'Existing (Ground Floor)', 'Proposed (Ground Floor)', 'Existing (First Floor)', 'Proposed (First Floor)', 'Existing (Second Floor)', and 'Proposed (Second Floor)' received by the Local Planning Authority on 19th November 2019.
- 3) Prior to the development hereby approved being brought into use a scheme demonstrating appropriate noise insulation between the application site and adjoining neighbouring properties at 66 Grange Road and 70 Grange Road shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the occupancy of the development hereby approved and retained for the life of the development.
- 4) Notwithstanding the submitted information and prior to the occupation of the HMO hereby approved, details for the storage of refuse shall be submitted to and agreed in writing by the Local Planning Authority. The agreed details shall be implemented prior to occupation of the HMO.
- 5) The use of the property as a house in multiple occupation (Sui Generis Use) shall not exceed 7 residents at any one time.
- 6) Notwithstanding the submitted information and in accordance with the details agreed in the appellant's 'Enforcement Appeal Statement', date received by the Local Planning Authority on 19th December 2019, the granting of permission for the development hereby approved does not include any alterations to the windows or doors.

END OF SCHEDULE OF CONDITIONS