
Appeal Decision

Site visit made on 23 June 2020

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2020

Appeal Ref: APP/X4725/C/19/3241389
326 Leeds Road, Wakefield WF1 2JA

- 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 Khalid Khan against an enforcement notice issued by City of Wakefield Metropolitan District Council.
 - The enforcement notice was issued on 21 October 2019.
 - The breach of planning control as alleged in the notice is, without planning permission, the erection of two dormer extensions to the front elevation of the dwelling on the Land.
 - The requirements of the notice are to remove the two dormers from the front elevation of the dwelling.
 - The period for compliance with the requirements is within three months of the date on which the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f) 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.

Reasons

The appeal on ground (d)

2. The appeal on this ground would succeed if it can be demonstrated that the dormer extensions were substantially completed on or before 21 October 2015, 4 years before the notice was issued. While the appellant states that construction began, and all external detailing was completed, over 4 years before the notice was issued, this makes no mention of internal works, so it does not necessarily follow that the dormer extensions, as a whole, were substantially complete then.
3. The Council advises that its Building Control service received some plans and calculations after the enforcement notice had been served and has not issued a completion certificate for the works. The Council also states that when it became aware of the breach, during Christmas 2015 and January 2016, a complainant said the dormers were in the process of being constructed. Finally, it has provided photographs showing scaffolding in place on 19 February 2016.
4. I have seen that the appellant stated, in an application submitted on 1 February 2016 (the 2016 application), that the work was not complete then

and, in his response to a planning contravention notice on 17 June 2019, that "Dormers are not complete and are not habitable". These statements contradict the limited evidence he has provided in this appeal and appear consistent with the evidence provided by the Council. Therefore, taken overall and on the balance of probability, the evidence indicates that the dormer extensions were not substantially completed 4 years before the notice was issued.

5. For these reasons, the appeal on ground (d) should not succeed.

The appeal on ground (a)

6. The main issue in this ground of appeal is the effect of the dormer extensions on the character and appearance of the area, which is typified by red brick 2 storey buildings, mostly in terraces. The appeal premises form the end of one such terrace. While the appellant refers to similar dormer extensions in the immediate area, none have been identified and I did not see anything comparable nearby. No other property in the terrace including the appeal premises has a front dormer extension and nearby terraces are similarly unaltered. Significant uniformity of roofscape is thus characteristic of the area.
7. The dormer extensions are sited close together and therefore appear as a single element, occupying most of the roof plane, in views along Leeds Road. Their prominence is exacerbated by the use of black cladding and fenestration that does not reflect the style or proportions of the windows below.
8. For these reasons, and even though the appellant is willing to amend the external materials, the dormer extensions do not exhibit high quality design and are discordant with the style of the original dwelling. They fail to respect, and result in significant harm to, the character of the area. This harm conflicts with policies D9 and D10 of the Wakefield Local Development Framework Development Policies Development Plan Document and Part 12 of the National Planning Policy Framework, which seeks to achieve well-designed places.
9. Accordingly, and having regard to all other matters raised, the appeal on ground (a) should not succeed.

The appeal on ground (f)

10. To succeed on this ground, the appellant must demonstrate that the steps required by the notice are excessive and that lesser steps could overcome the breach of planning control it alleges. The breach of planning control is the erection of the dormer extensions without planning permission and the purpose of the notice is to achieve their removal.
11. The appellant is open to a compromise that would allow the dormer extensions to be amended rather than removed, although this would not fully overcome the breach alleged in the notice. However, it has not been indicated what the compromise design might be, and it is not possible to broker agreement by means of an appeal.
12. While the appellant has not referred to it, an alternative design is shown on drawings permitted in 2014¹. However, evidence to show that the permitted front dormer extensions could be formed without first removing the unauthorised ones, which the notice requires, is not before me. Accordingly,

¹ 14/01060/FUL, permitted 13 October 2014

even if it were still possible to construct the dormer extensions that were permitted in 2014, varying the requirements of the notice to allow for this would create unacceptable uncertainty about what must be done in order to comply with it. In contrast, the requirements stated in the notice are the only identified means by which the breach can be overcome with certainty.

13. For these reasons the requirements of the notice are not excessive and the appeal on ground (f) must fail.

The appeal on ground (g)

14. The appellant believes the removal of the dormer extensions is only practical during the summer months and will require further approvals from the Council. He also needs time to raise the necessary finance for the works. Consequently, an extended period of 9 months for compliance is sought.
15. The 2016 application includes a statement that work began in September 2015 and photographs taken by the Council show scaffolding in place in February 2016. This suggests it would be feasible to enact the requirements of the notice outside of the summer months. Although it is not stated what further approvals might be required, any that were necessary would facilitate timely compliance with the notice, so I have no reason to believe the Council would not co-operate. Finally, as I have not been given any financial information, I can only give limited weight to this aspect of the appellant's case.
16. Taking all this evidence into consideration I find that 3 months is a reasonable period for the necessary works for the dormer extensions to be removed. Consequently, the appeal on ground (g) should not succeed.

Conclusion

17. For the reasons given above, I conclude that the appeals 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.

Mark Harbottle

INSPECTOR