



Appeal Decision

Site visit made on 15 January 2021

by S A Hanson BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2021

Appeal Ref: APP/F0114/C/20/3257573

5 Beckhampton Road, Oldfield Park, Bath BA2 3LL

- 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 Bennasr against an enforcement notice issued by Bath & North East Somerset Council.
 - The enforcement notice was issued on 10 July 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a rear dormer.
 - The requirements of the notice are:
 - (a) Dismantle the dormer outlined in red dashed line on photo sheet 1, in its entirety and reinstate the roof to its original form and pitch with tiles to match the existing.
 - OR;
 - (b) Dismantle the dormer outlined in red dashed line on photo sheet 1, in its entirety and install a dormer strictly in accordance with the details approved under planning permission 19/04242/FUL as granted by the Local Planning Authority on 4th November 2019.
 - The period for compliance with the requirements is 12 (twelve) months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended (the 1990 Act).
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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.

Background

2. The property is located within the World Heritage Site of Bath and is therefore on article 2(3) land¹. For this reason, the property does not benefit from permitted development rights set out under Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) which relates to the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. There are no other permitted development rights applicable to this development therefore as no planning permission has been granted for the structure the works constitute a breach of planning control.
3. Planning permission was granted in November 2019² for a loft conversion and erection of ground floor rear extension. From the evidence provided, it is

¹ Designated land (Article 2(3)) includes national parks and the Broads, Areas of Outstanding Natural Beauty, conservation areas and World Heritage Sites.

² Planning application ref: 19/04242/FUL.

apparent that the dormer has not been constructed in accordance with the terms and conditions of the permission, in both dimensions and materials.

4. Where a Notice alleges that a building was erected not in accordance with the approved plans and requires that the building, or part of the building, is removed or modified to accord with the planning permission, the purpose of the Notice will be to remedy the breach³.

Ground (a) and the deemed planning application

Main issue

5. This is the effect of the development on the character and appearance of the host dwelling, the wider area, and the City of Bath World Heritage Site, within which the appeal site is located.

Reasons

6. The appeal site is located in Oldfield Park and is set within a residential street, with shops and businesses premises also forming part of the wider area. The road comprises mostly of two storey, honey-coloured Bath stone terraced dwellings, of a similar design and uniform appearance. The site is identified as being within the Bath World Heritage Site, which is a heritage asset of high significance due to its outstanding universal value. It includes an extensive area of the city, such as the historic core to the modern residential estates in the suburbs.
7. Policy CP6 of the Core Strategy (Part 1 of the Local Plan) provides that the distinctive quality, character and diversity of Bath and North East Somerset's environmental assets will be promoted, protected, conserved or enhanced through, amongst other matters, high quality design, which reinforces and contributes to its specific local context. It advises that the Council will protect, conserve and seek opportunities to enhance the historic environment including the character and setting of designated and other heritage assets.
8. The development is an imposing flat roof, box-shaped rear dormer. Being constructed to the extremities of the roof, to both sides and the ridge, the dormer extension is of considerable bulk and projection. It lacks architectural subtlety in its design and results in an addition that does not appear as a subordinate addition to the roof of the host property. Furthermore, the light-coloured render, which does not match the existing or neighbouring roofs, and the fenestration which bears little resemblance to the predominant style of windows in the locality, illuminates the incongruous nature of the development and emphasises the visually dominant addition to the property.
9. Views towards the rear of the property are achieved from the public realm within Shaftesbury Mews and from neighbouring properties. Whilst the effect is relatively localised in terms of wider views, and the development affects only the rear of the property, the character of the area derives from the buildings, layout and context as a whole, regardless of whether particular elements are open to extensive public views. Its significance does not therefore rely only on the elements that can readily be seen. Overall, the development is considered an insensitive visual intrusion within the street scene, which causes material harm to the visual amenity of both the host dwelling and the wider locality.

³ S173(4)(a) of the 1990 Act

10. In contrast to what has been built, the dormer approved under LPA Ref: 19/04242/FUL and whose erection would comprise compliance with the notice, would be in the form of a subservient addition set down from the ridge, set back from the eaves and stepped in from the left side. Furthermore, both the materials and fenestration as shown on the approved plans would be more in keeping with the appearance of the locality and this would enable the dormer to blend into its surroundings to a greater extent. By virtue of its size, design and materials, the development as approved represents a materially less substantial and visually acceptable form of development than the dormer as-built and a more acceptable addition to the roof of the property in this area.
11. In view of my findings regarding the scale and appearance of the development as-built, I conclude that the dormer unacceptably harms the character and appearance of the host property and the wider area. This is contrary to Policies D1, D2 and D5 of the Placemaking Plan for Bath and North East Somerset (2017), Policy CP6 of the Core Strategy (Part 1 of the Local Plan) (2014). Together, these require new development to enrich the character of places and contribute positively to site context and local distinctiveness, respecting locally characteristic architectural styles and complement and enhance host buildings.

Other matters

12. Examples of dormer extensions to the rear of other properties have been brought to my attention by the appellant and indeed I observed some of these developments when I visited the site. Whilst there are examples of large dormer extensions, some are more successful than others. It seems that although these are mainly less substantial than the appeal development, some are of a considerable size. However, I am not aware of the planning status or circumstances that may have led to those cases but in any case, their presence does not justify the harm caused by the appeal development.
13. I sympathise with the appellant concerning the Council's approach whilst dealing with the planning matters. However, my assessment is based on an impartial appraisal of the planning merits regarding relevant planning policies. Dissatisfaction with the Council's procedure should appropriately be made in the first instance through the authority's own complaints procedure.

Conclusion

14. 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.

S A Hanson

INSPECTOR