



Appeal Decisions

Site visit made on 26 June 2021

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 02 July 2021

Appeal A - Ref: APP/J4525/C/21/3270015 22 Ennerdale, Sunderland SR2 7HR

- 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 John Clark against an enforcement notice issued by Sunderland City Council.
 - The enforcement notice is dated 2 February 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission, the construction of flat roofed dormer roof extensions to the front and rear roofs of the dwelling, with white UPVC cladding to the front of each dormer and synthetic slate hanging to the sides, shown more particularly in the attached photographs annotated, "EN2 Photographs of dormers".
 - The requirements of the notice are: (i) Reinstate the land to its condition before the development took place in accord with the attached images of the front and rear of the dwelling, prior to the development taking place, annotated "EN3 Google Street View Images Sept 2014", and requirements (ii) to (iv) below. (ii) Dismantle the front and rear dormers in their entirety. (iii) Reconstruct a dual pitched roof of the same pitch, eaves and ridge height as that which was removed, incorporating timber rafters of the appropriate cross section and grading to support the roof loads, overlaid with a suitable roofing membrane, timber slaters laths, natural slates of a similar size and colour and laid at the same gauge as those that were removed, black fascia boards and gutters, and grey ridge tiles similar to those which were removed, laid in cement mortar. (iv) Remove from the land all materials and wastes arising from compliance with the requirements of this notice.
 - The period for compliance with the requirements is four months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B - Ref: APP/J4525/D/21/3270011 22 Ennerdale, Sunderland SR2 7HR

- 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 Mr John Clark against the decision of Sunderland City Council.
 - The application Ref 20/01681/FUL, dated 15 September 2020, was refused by notice dated 29 January 2021.
 - The development proposed is loft conversion to provide 2 bedrooms and 1 en-suite with dormers to front and back.
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Decisions

1. Appeal A is dismissed and the enforcement notice is upheld.
2. Appeal B is dismissed.

Preliminary matters

3. Although dormer extensions have been carried out to the roof, the development as built differs from the proposed plans. As ground (a) has not been pleaded in Appeal A seeking permission for the development as built, I have based my consideration of the proposal on the submitted plans for the purposes of Appeal B.

Appeal B – section 78

Main Issue

4. The main issue is whether the development preserves or enhances the character or appearance of the conservation area.

Reasons

The conservation area and the appeal site

5. The Ashbrooke Conservation Area (CA) was designated as a fine example of a Victorian suburb, located to the south of Sunderland city centre. Residential Victorian terraces are the predominant built form in the area, and these are interspersed with a range of different building types and uses of a more varied character. Also important are the trees, parks and open green areas, which contrast with the densely developed built form of the terraces.
6. The appeal site is a single storey mid-terraced dwelling, and an example of a Sunderland cottage. To one side is a two-storey house, and on the other side is a row of similar single storey dwellings. No 22 has a brick frontage with a prominent bay window and a simple doorway to the side. It is set back from the pavement behind a brick dwarf wall with decorative railings. At the back, the rear roof slope is visible from the lane. Prior to the development, the building had roof slopes that were plain in appearance.
7. Despite a number of alterations, I am satisfied that, prior to the unauthorised development, the frontage of No 22 sat comfortably and unobtrusively within the street. I accept that Ennerdale is one of the less grand streets in the CA, but it does not follow from this that it is not significant. Rather, the appeal site and the other Sunderland cottages in the row are good examples of the less expensive housing that co-existed and contrasted with the finer, more decorative architecture accessible to the wealthier residents.
8. In that context, No 22 is an unassuming building of a traditional character that makes a positive contribution to the overall significance of the CA, in terms of both its physical form and the understanding of the social history of the area.

The appeal scheme and its impact

9. The development would comprise two box dormers, one on the front slope and one on the rear slope of the property. The Council's document entitled 'Supplementary Planning Guidance – Ashbrooke Conservation Area Character Study' (SPG) indicates that dormers of a traditional design are characteristic of the CA. However, it goes on to say that the rhythm of the roofscape has been disrupted in some terraces with the addition of modern dormer extensions.
10. The proposed dormers would span almost the width of the front and rear roof slopes. They would be set down from the ridge and in from the edges of the

roof slopes, leaving a small amount of the roof visible. There would be a minimal gap between the bottom of the dormers and the eaves.

11. The new dormers would significantly alter the appearance of the building. They would have flat roofs, and would be wider than they are tall. As a result, they would have a flat, squat appearance which would be accentuated by their large size in proportion to the existing roof slopes. Although they would be set in slightly from the roof edges, they would detract from the plain, simple roof form that characterised the dwelling.
12. Although parts of the roof would remain visible, the new dormers would dominate the scale of the roof, detracting from its character and appearance. They would give a disproportionate bulk to the upper level at both the front and back, appearing neither sympathetic nor subsidiary to the modest scale of the appeal property.
13. The gist of the appellant's argument is that dormer windows of this style are prevalent in the street, and are part and parcel of its character and appearance. On my visit, I saw that there are a number of dormer windows in the street. On the same side as No 22, I saw only one example that was so large that it subsumed the roof slope. The other examples were small enough to leave quite a lot more of the roof slopes intact, thus better preserving the character of the dwellings.
14. On the other side of the road, there were a greater number of dormer extensions. These had a mixture of styles, some with flat roofs and some of a taller, more narrow style with pitched roofs. I did not see any dormer extensions on the fronts of the two storey dwellings opposite the appeal site. Therefore, although there are several examples, they are not all of the flat-roofed variety, and not all are as obtrusive in the street scene as would be the proposed development. Moreover, on the side of No 22, dormer extensions appear on a minority of the single storey dwellings.
15. The appellant states that a further consideration is the two storey dwellinghouse adjoining the appeal property, which appears to have had a flat roofed extension finished in brick. In this context, he contends that the front dormer would not appear overbearing. However, I saw that this extension is smaller and narrower in scale, and sits more comfortably in proportion to the overall scale of the house. As such, its presence would be insufficient to mitigate the effects of the proposal.
16. Whilst there are other dormers in the street, on balance, the plain, simple form of the original roof profiles is still clearly in evidence, and in my view, is still the predominant form in the street. This is particularly the case on the side of No 22, where dormer extensions appear to be in the minority.
17. Taking all of these factors in combination, I therefore conclude that the development would unacceptably harm the appearance of the appeal building, and would thus fail to preserve the character or appearance of the conservation area as a whole.
18. Accordingly, the development conflicts with the overarching statutory duty as set out in the 1990 Act, which must be given considerable importance and weight. In addition, the development fails to accord with Policy BH1 of the Sunderland City Council Core Strategy and Development Plan 2015-2033

(CSDP), insofar as it requires development to be of a scale, massing and appearance which respects and enhances the positive qualities of nearby properties and the locality, and CSDP Policies BH7 and BH8, insofar as they jointly seek to conserve the historic built environment, including conservation areas. It further conflicts with the purpose of the SPG, which is to protect the CA through the promotion of good design.

19. Although serious, the harm to the heritage asset in this case would be less than substantial, within the meaning of the term in paragraph 195 of the National Planning Policy Framework (NPPF). Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 196 requires that, where a development would lead to less than substantial harm, the harm should be weighed against the public benefits arising from it.
20. Although the appellant has not specifically addressed the benefits of the scheme, it is apparent that the proposed dormers would provide additional living space within the dwelling. Nonetheless, this is a private benefit, and so does not count in favour of the appeal scheme.
21. I therefore find that insufficient public benefits have been identified that would outweigh the harm I have identified to the CA. The scheme therefore conflicts with the NPPF, which directs, at paragraph 193, that great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Appeal A on ground (f)

22. The appeal on ground (f) is that the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.
23. Within the street there are a number of other dormer windows of varying size, scale and design including construction materials. The cheeks of the dormer are finished in hanging slate tiles to match the finished materials of the roof slope. The appellant suggests that the front uPVC cladding could be conditioned to be replaced within three months by slate hanging tiles to match the cheeks.
24. Whilst such a change would be more in keeping with the slate finish on the remaining roof and the roofs of properties in the vicinity, it would not resolve the Council's concerns with respect to the scale and proportion of the dormers. On my visit, I saw that very few dormer extensions in the street were of sufficient size to almost completely subsume the roof of the dwelling, as do the dormers as built. That being the case, a change of materials alone would not be enough to mitigate the harmful appearance of the unauthorised development.
25. The appeal on ground (f) therefore fails.

Appeal A on ground (g)

26. The appeal on ground (g) is that the time given to comply with the notice is too short. The notice gives four months for the carrying out of the requirements.

27. The appellant argues that this will be difficult especially given the current coronavirus pandemic which is putting additional pressure on the construction industry. He also refers to the appeal against the refusal of planning permission. However, as that appeal has been dealt with here in tandem with the enforcement appeal, no further time is needed.
28. Whilst I take the pandemic difficulties into account, the removal of the dormers should not be too difficult or time consuming to carry out. I am mindful that the Council has powers to extend the time for compliance if this turns out to be needed.
29. I therefore find that four months is a reasonable time in this instance, and ground (g) fails.

Conclusion

30. For the reasons above, both the appeals are dismissed, and the enforcement notice is upheld.

Elaine Gray

INSPECTOR