
Appeal Decisions

Site visit made on 13 December 2021

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2021

**Appeal Ref: APP/Q1445/C/21/3274896 & APP/Q1445/C/21/3276197
32 Hove Street, Hove BN3 2DH**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Harbilas S Sagar and Mrs Harvinder Sagar against an enforcement notice issued by Brighton & Hove City Council.
 - The enforcement notice was issued on 28 April 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of side and rear dormers and re-painting of front, rear and side elevations on the dwellinghouse.
 - The requirements of the notice are:
 1. Remove the side and rear dormers and re-instate the roof using materials of a similar appearance of those used in the construction of the existing roof;
 2. Re-paint the dwellinghouse to one of the following colours of smooth matt masonry paint:
 - o BS 4800 No's: (i.e. BS 4800 08 B15 Magnolia)
 - o 08 B15 Magnolia
 - o 08 B17 Vellum
 - o 10 B15 Soft White
 - o 08 C31 Buttermilk
 - o 10 C31 CreamProvided that the same colour from the above list must be used on both halves of a semi-detached property.
 - The period for compliance with the requirements is 12 months.
 - The appeals are proceeding on the grounds set out in section 174(2) (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeals on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Decisions

1. The appeals are dismissed, and the enforcement notice is upheld.

The appeals on Ground (f)

2. The appeal on this ground is "that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters (i.e., the matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".
3. The enforcement notice requires both the removal of the side and rear dormers and the re-painting of the dwellinghouse to one of the colours specified in the

article 4 direction. Therefore, the purpose of the notice is to remedy the breach of planning control rather than only remedy any injury to amenity.

4. The appellants state that the steps required by the enforcement notice to remove the dormers are excessive since they have little or no impact on the street scene and that some minor adjustment to the design of the development may be appropriate subject to negotiation with the planning department. With regard to the paint colour the appellants advise that the property has never been painted in any of the colours specified in the article 4 direction, nor have any of the other properties in this group. They also state that No 26 and a new build property has been painted in a property not in accordance with the article 4 direction, and therefore retrospective planning permission should not have been refused,
5. With regard to the removal of the dormers and the re-painting of the property, given that the ground (a) appeal has lapsed, I cannot assess the planning merits of the case, and I must take the notice at face value. The notice has been issued to remedy the breach of planning control. That would not be achieved by the steps outlined by the appellants, as it would not remedy the breach of planning control.
6. With regard to painting the property, it is not possible to simply remove the unauthorised paint. Regardless that it has never been previously painted in one of colours specified in the Article 4 direction, the breach can only be remedied by re-painting the property, and to do so without causing another breach of planning control, it needs to be painted in accordance with one of the colours specified in the Article 4 direction (provided that the same colour, must be used on both halves of a semi-detached property).
7. As the notice does no more than seek remedy of the breach, it is not excessive. There are no lesser steps drawn to my attention or any obvious alternatives that would remedy the breach of planning control which is the purpose of the notice.
8. On this basis, the Ground (f) appeals fail.

Conclusions

9. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice.

R Satheesan

INSPECTOR