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## Appeal Decisions

Site visit made on 8 December 2021

**by S A Hanson BA(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 February 2022**

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### **Appeal A Ref: APP/P0119/C/21/3281805**

#### **Land at 25 Quarry Road, Alveston, South Gloucestershire BS35 3JL**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Basri Kalia against an enforcement notice issued by South Gloucestershire Council.
  - The notice, numbered COM/20/0582/OD/2, was issued on 29 July 2021.
  - The breach of planning control as alleged in the notice is Without planning permission, the construction of a dormer roof extension on the rear roof slope of the dwelling.
  - The requirements of the notice are to: 1. Remove the dormer roof extension and 2. Restore the roof to its condition before the breach took place, by making good the roof structure and tiling over the rear roof slope with roof tiles to match those on the existing dwelling.
  - The period for compliance with the requirements is: Three months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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### **Appeal B Ref: APP/P0119/W/21/3276258**

#### **25 Quarry Road, Alveston, Bristol BS35 3JL**

- 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 Basri Kalia against the decision of South Gloucestershire Council.
  - The application Ref P21/01205/F, dated 5 March 2021, was refused by notice dated 29 April 2021.
  - The development proposed is described as installation of 1 no. rear dormer to facilitate loft conversion.
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## **Decisions**

### **Appeal A Ref: APP/P0119/C/21/3281805**

1. It is directed that:

The enforcement notice be varied by the deletion of "Three months" and the substitution of "Six months" as the period for compliance with the requirements.

2. Subject to this variation, 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 Ref: APP/P0119/W/21/3276258**

3. The appeal is dismissed.

## **Appeal A - ground (a) and the deemed planning application, and Appeal B**

### **Main Issue**

4. This is the effect of the development on the character and appearance of the host property and the surrounding area.

### **Reasons**

5. The appeal property (No.25) is within the Green Belt where the construction of new buildings should be regarded as inappropriate. Exceptions to this are, amongst other things, extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The Council considered that, in line with Policy PSP7 of the South Gloucestershire Policies, Sites and Places Plan adopted November 2017 (the PSP Plan) which forms part of the South Gloucestershire Local Plan, the addition to the property would not exceed 30% of the volume of the original building and would therefore not be considered inappropriate development in terms of development within the Green Belt. With no evidence to the contrary, I see no reason to disagree with the Council's considered opinion on this matter.
6. No.25 is a two-storey mid-terrace house within a residential area where it is predominantly surrounded by semi-detached and terraced houses of similar character and architectural design. There are two distinct styles of houses within the immediate vicinity: several properties have mansard roofs punctured with windows to serve the first floors, while others display gabled or hipped roofs.
7. During my site inspection, I did not see any examples of dormer windows within the roof slopes of the properties which immediately surround the appeal property. However, I did observe a new housing development where the more contemporary architectural style incorporates living accommodation within the loft space lit by windows in the gable ends and some lit by small dormer windows. These buildings in part look to exceed the height of No.25 and its neighbours, but they are of a completely different style, set within the realms of a new standalone development and therefore not comparable with the appeal proposal.
8. The flat roof rear dormer on No.25 spans the full width of the property, and this joins the near full width dormer on the neighbouring property (No.25A) which is also the subject of both a s78 and s174 planning appeal<sup>1</sup>. The flat roof of the dormer window sits just below the ridge height of the original property. The wall plate is stepped back from the eaves and displays two windows which match the existing on the rear of the property. The façade and cheek of the dormer are finished with painted white render which matches the rest of the house.
9. Views towards the rear of the property are achieved from the public realm and from neighbouring properties. The development is of considerable bulk and projection and lacks architectural subtlety in its box-like design. The result is a discordant addition that is not subordinate to the main roof slope and is visually dominant to the host dwelling reading as a third storey rather than a loft conversion. This is uncharacteristic of the immediate area, departing from

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<sup>1</sup> APP/P0119/C/21/3281806 and APP/P0119/W/21/3276264

the uniformity and repetitive pattern of the residential properties within the vicinity. The overbearing development diminishes the character and appearance of the host property and its immediate surroundings in an unacceptable manner. The appellant suggests that the dormer could be finished with hanging tiles that match the colour of the existing roof tiles to help assimilate better with the roofscape. Although this is considered a preferable option for the finishing materials, it would not diminish the actual scale of the development and the harm I have identified.

10. Overall, the dormer roof extension does not achieve the quality of design or respect for the surroundings. The effect of the development is unacceptably harmful to the character and appearance of the host property and the immediate surroundings. This conflicts with Policy CS1 of the South Gloucestershire Local Plan Core Strategy 2006 – 2027 (the CS) and Policies PSP1 and PSP38 of the PSP Plan. Together, these seek the highest possible standards of design which respect, respond to and enhance the character, distinctiveness and amenity of both the site and its context.

### **Other Matters**

11. The appellant highlights that the reason why permitted development rights were removed for the property was to manage any future development at the site in the interests of preserving the openness of the Green Belt. It is argued that the aims of this condition have been achieved and the development therefore ought to be deemed acceptable in terms of its impact on the residential Green Belt setting. However, I do not consider that the condition is solely concerned with preserving the openness of the Green Belt, but to accord with Policies CS5 and CS34 of the CS; Policy PSP7 of PSP Plan; and the provisions of the National Planning Policy Framework which, amongst other things seek high quality design and protection of the distinctive character of the rural area. Notwithstanding that permitted development rights do not constitute a valid fall-back, it is far from clear in any case that the dormer would be permitted development. But in any case, I consider the development to be unacceptable on its merits.

### **Conclusion on Appeal A - ground (a) and the deemed planning application and Appeal B**

12. The development would conflict with the development plan taken as a whole and the approach of the Framework. There are no material considerations that indicate the decision should be determined other than in accordance with the Development Plan. For the reasons given above I therefore conclude that the s78 appeal and the appeal on ground (a) should not succeed and I shall refuse to grant planning permission on the deemed application.

### **Appeal A - ground (f)**

13. The purposes of an enforcement notice are set out in Section 173 of the Act and are to remedy the breach of planning control (s173(4)(a) or to remedy injury to amenity (s173(4)(b)). As the enforcement notice requires the removal of the dormer roof extension and restoration of the roof to its condition before the breach took place, I consider the purpose is to remedy the breach of planning control.

14. The appeal under ground (f) is that the requirements of the notice exceed what is necessary and for the consideration of whether lesser steps would overcome the breach of planning control.
15. I have already considered the alternatives put forward under ground (a) and found them to be unacceptable. Given that the requirements go no further than simply requiring the appellant to undo what has been done, by complying with part 5 of the notice, the requirements self-evidently cannot exceed what is necessary to fully remedy the breach of planning control. Allowing the dormer extension to remain, even if it was re-covered with hanging tiles to match the existing roof, would not fully remedy the breach.
16. There are no lesser steps that would achieve the statutory purpose behind the notices. Accordingly, the appeal on ground (f) fails.

**Appeal A – ground (g)**

17. The appeal on ground (g) is that the period specified in the notice falls short of what should be reasonably allowed. The appellant argues that 3 months is too short a period to enable the removal of the dormer and requests the compliance period be extended to 6 months to allow the appellant time to raise the necessary funds to carry out the works required and to find a competent builder to complete the works to a high standard.
18. Overall, and having regard to both parties, I consider that three months is an unreasonable amount of time to comply with the notice because of the significant works that will need to be undertaken to remove the development. I shall extend the compliance period to six months. Accordingly, the appeal on ground (g) succeeds.

*S A Hanson*

INSPECTOR