
Appeal Decision

Site visit made on 10 February 2022

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 28 February 2022

Appeal Ref: APP/H0724/C/21/3285358
213 Wynyard Road, Hartlepool TS25 3LG

- 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 Maurice Weegram against an enforcement notice issued by Hartlepool Borough Council.
 - The enforcement notice is dated 22 September 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of an outbuilding garden room in the front garden and the erection of boundary walls and fences around the front and side garden.
 - The requirements of the notice are: (i) Remove the detached outbuilding from within the front garden. (ii) Reduce the height of the pillars, wall and associated fencing to the front and side to 1m above the given ground level (iii) Remove any associated debris associated with step (i and ii).
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (d) 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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Decision

1. The appeal on ground (d) in respect of the boundary wall succeeds and it is directed that the enforcement notice is corrected by:
 - the deletion of the text 'and the erection of boundary walls and fences around the front and side garden' from the allegation; and
 - the deletion of the text of the requirements in its entirety and its substitution with the text '(i) Remove the detached outbuilding from within the front garden. (ii) Remove any associated debris associated with step (i).'
2. The appeal on ground (a) in respect of the outbuilding garden room fails, the enforcement notice, as corrected, is upheld, and the deemed planning application is refused.

The enforcement notice

3. The appellant submitted a planning application for the development which was refused on 26 August 2021. The timescale for submitting an appeal against that decision was until 18 November 2021. The appellant requests that the enforcement notice should be found invalid because it was served before the end of the period for an appeal to be made.

4. The notice is dated 22 September 2021. Paragraph 7 of the notice clearly states that the notice takes effect on 29 October 2021 'unless an appeal is made against it beforehand.' That appeal has been made, and so the enforcement notice cannot take effect until the appeal has been determined. The enforcement notice cannot therefore be held to be invalid on the grounds the appellant suggests.

The appeal on ground (d)

5. The appeal on ground (d) is that at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice. In this case, ground (d) relates only to the boundary wall. The onus of proof lies on the appellant and the standard of proof is the balance of probabilities.
6. For operational works, the time period for enforcement is four years from the substantial completion of the development. The enforcement notice is dated 22 September 2021, and so the boundary wall needs to have been substantially complete on or before 22 September 2017 to be immune from enforcement action. The appellant says the wall has been in place since 2014.
7. His Appendix 1 is a photograph of his granddaughter with the wall in the background, said to have been taken in 2016. Appendix 4 contains two photographs the appellant took of his dwelling showing the wall and garden room. These photographs are undated, which limits the weight I can afford them.
8. However, Appendix 3 is an invoice, dated 30 July 2014, for the taking away of a defective brick wall and the construction of a new wall at the appeal site. This evidence is supported by a letter from a neighbour, at Appendix 2, stating that the wall was constructed in 2014. Also, a letter from another local resident states that the wall has been up for approximately eight years, a timescale that would predate the material date of September 2017.
9. The Council offer little evidence to contradict that submitted by the appellant. I therefore find, on balance of probabilities, that the wall was substantially complete more than four years prior to the date of the enforcement notice. It is therefore immune from action.
10. The appeal on ground (d) succeeds in respect of the boundary wall.

The appeal on ground (a)

11. The appeal on ground (a) is that planning permission should be granted for what is alleged in the notice. As I have found that the wall is immune from enforcement action, I shall not consider it under ground (a).

Main issue

12. The main issue is the effect of the development comprising the detached outbuilding on the character and appearance of the surrounding area.

Reasons

13. The appeal site is a two storey end-of-terrace dwelling located on the corner of the junction between Wynyard Road and Laird Road. The development

comprises a detached outbuilding that sits in front of the dwelling, close to the boundary wall and next to the pathway to the house.

14. Policy QP4 of the Hartlepool Local Plan (HLP) seeks to ensure that all developments should be designed to a high quality and should positively enhance their location and setting. Amongst other things, development should: be of an appropriate layout, scale and form that positively contributes to the Borough and reflects and enhances the distinctive features, character and history of the local area; respect the surrounding buildings, structures and environment; be aesthetically pleasing, using a variety of design elements relevant to the location and type of development; and use an appropriate mix of materials and colour.
15. The outbuilding is square on plan with a shallow monopitched roof. The external walls are finished in grey horizontal boarding and there is one double door opening. With a footprint of approximately 4m by 4m, the building is of a substantial size in relation to the garden plot and the main dwelling. As No 213 occupies a corner location, the outbuilding is prominent in views when approaching from both directions on Wynyard Road and from the east along Laird Road.
16. In terms of materials, the grey boarding does not appear to be characteristic of the area. Whilst white eaves and rain water goods were evident at the main building at No 213, the white overhanging eaves of the outbuilding appear overly deep and heavy. These materials might well be acceptable for an outbuilding in a more unobtrusive location. However, in this instance, they serve to increase the visual dominance of the development in relation to the house and in wider views of the street scene.
17. On my site visit, I did not see any other examples of outbuildings set forward of the front elevations of houses in the immediate vicinity. My attention has been drawn to a detached outbuilding at 12 Loch Grove which is adjacent to the front elevation of the house, and partially screened by a high fence. I am not aware of the planning history of that outbuilding, which limits the weight I can give to that case. In any event, this single example demonstrates that such developments are in the minority, and are not a design feature of the area.
18. I have taken into account the representations of support, including a letter from the appellant's doctor describing the health benefits of the outbuilding. Whilst acknowledging this contribution to his wellbeing, the outbuilding would be a permanent development that would outlast any personal needs of this nature. Moreover, it could be that such a benefit could be achieved by an alternative scheme of a more sympathetic design.
19. I therefore conclude that the outbuilding unacceptably harms the character and appearance of the surrounding area, contrary to HLP Policy QP4, and the National Planning Policy Framework, which states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

Conclusion

20. On the balance of probabilities, the appeal on ground (d) should succeed in respect of the boundary wall. It is directed that the enforcement notice be corrected accordingly.
21. However, for the reasons given above, I conclude that the appeal on ground (a) should not succeed in relation to the outbuilding. I shall uphold the enforcement notice with corrections and refuse to grant planning permission for the outbuilding on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Elaine Gray

INSPECTOR