
Appeal Decision

Site visits made on 10 February & 8 March 2022

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 08 April 2022

Appeal Ref: APP/H0724/C/21/3288190
170 Park Road, Hartlepool TS26 9LW

- 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 Scott Borthwick against an enforcement notice issued by Hartlepool Borough Council.
 - The enforcement notice is dated 2 November 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of outbuildings and high fencing at the rear and installation of hard surfacing and roller shutter garage door at the front.
 - The requirements of the notice are: (i) Remove the roller shutter garage door in its entirety and restore the garage door to its condition before the breach took place. (ii) Remove the resin bound surfacing in the front garden and restore the surface to its condition before the breach took place. (iii) Reduce the height of the timber fencing on the rear boundaries so that it does not exceed 2m in height. (iv) Remove the outbuilding at the rear in its entirety and restore the land to its condition before the breach took place, or reduce the height of the outbuilding in the rear garden so that it does not exceed 2.5m in height.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed, the deemed planning application is refused, and the enforcement notice is upheld.

The appeal on ground (c)

2. The appeal on ground (c) is that there has not been a breach of planning control.
3. The appellant raises issues of security and visual effect in relation to the roller shutter garage door, the bound gravel and the rear fence. However, these comments are more appropriate to ground (a) as they go to the planning merits of the case. I have therefore considered them further below.
4. In relation to the rear outbuilding, it is the appellant's understanding that it should not need planning permission because it is designed for a use incidental to the main dwelling. For this argument to succeed, the appellant needs to demonstrate that the outbuilding falls within the limits of Class E of the Town and Country Planning (General Permitted Development) Order (2015) (GPDO). Although use is one factor, an outbuilding needs to meet all the requirements in order to fall within householder permitted development (PD) rights.

5. Class E.1(e) of Part 1 of the (GPDO) specifies that an outbuilding erected within 2m of a boundary should not exceed 2.5m in height. The erected outbuilding sits along the side and rear boundaries of the rear plot, and has an approximate height of 2.61m, according to the Council.
6. The appellant does not dispute the Council's evidence on the height of the building. Therefore, in the absence of any substantive evidence to show that the outbuilding falls within the limitations of Class E, I conclude that planning permission is needed for the outbuilding.
7. The appeal on ground (c) fails.

The appeal on ground (a) and the deemed planning application

Main Issue

8. The main issue is whether the development preserves or enhances the character or appearance of the Grange Conservation Area.

Reasons

9. The Grange Conservation Area (CA) is a predominantly residential area located to the west of the town centre. Much of the area is characterised by larger Victorian properties in generous gardens, giving the area a spacious feel. Although the houses are not uniform in design, the common characteristics such as the large bay windows, panelled doors, and slate roofs link them together to give the area a homogenous appearance. A small row of commercial properties on Victoria Road links this residential area to the main town centre.
10. The southern boundary of the CA runs along Park Road, and only the properties on the northern side of the road are included in the CA. Here, the buildings are arranged in pairs, and No 170 forms a mirror image of the adjoining building. It is a two storey semi-detached house built of brick with a slate roof and a brick chimney. The frontage is characterised by bay windows on the ground and first floors, with a smaller window above set in a dormer with decorative boarding and a finial. The main entrance is paired with that of the neighbouring house, with a canopy over and a first floor window above.
11. No 170 appears to be typical in terms of the layout of its grounds, whereby the front plot is fairly shallow in contrast to the rear plot, which extends to a greater depth behind the house. The Council's document, 'Grange Conservation Area Character Appraisal' (the Appraisal) notes that 'front gardens make a very strong contribution to the character and appearance of the conservation area due to their number, their visibility, and because, despite changes in detail, they are generally intact in high numbers. They help define its thick, green character and are fundamental to its leafy, mature appeal as an historic residential neighbourhood.'
12. The Appraisal goes on to say that 'back gardens make a surprisingly strong contribution to the character of the area. Spatially they are amassed between the rows of buildings, and the trees within them are sufficiently mature to register between and even above the buildings in places. The views of these trees and other greenery are an important part of the deep, rich, period suburban scene in the detached and semidetached streets.'

13. Therefore, despite some alterations, No 170 remains typical of the overall layout and appearance of the neighbouring properties. The features I have noted all make a positive contribution to the terrace and wider street scene, and in turn to the overall significance of the CA.

The effect of the development

14. Policy HE3 of the Hartlepool Local Plan (HLP) states that proposals for development in the CA will need to demonstrate that they will conserve or positively enhance their character. It sets out design guidelines to ensure, amongst other things, that the scale and nature of development should be appropriate to the CA, and that the design, height, orientation, massing, means of enclosure, materials, finishes and decoration should ensure development is sympathetic to and/or complementary to the CA.
15. The previous garage door has been replaced with a black metal roller shutter door. The shutter is housed within a black box that projects from the main frontage of the garage, resulting in a bulky, top heavy appearance. At the neighbouring property is a brick fronted garage. Although the door in that garage is metal, it appears to be of the up and over kind, and so sits flush within its timber frame.
16. In contrast to the more domestic appearance of the neighbouring garage, the roller shutter door at No 170 has an industrial appearance that is at odds with the domestic character of the appeal site. Moreover, there is little evidence that roller shutter garage doors of this kind are a prevailing characteristic in the CA.
17. The garden area at the front has been surfaced over, forming an area where vehicles can park. On my visit, I took the opportunity to view the treatments of the front gardens in the vicinity on the same side of Park Road. I saw a variety of different surfacing materials. However, the majority of the properties had some form of delineation between the path to the front door and the garden areas, either using contrasting surface materials, or kerbing of some kind, or both. Many gardens had planting beds or shrubbery which softened the appearance of the properties and added a decorative element to the fronts.
18. However, the covering of the whole frontage at No 170 with a single material comprising grey resin bound gravel results in a stark, flat appearance that is at odds with the traditional appearance of the house. Although there were a small number of dwellings with a similar treatment of the frontage, these were in the minority, and not typical of the character of the CA.
19. As noted above, an outbuilding has been constructed at the back of the house. In addition, a close boarded timber fence has been erected around the rear plot. Although these elements are away from public view, they are still visible from the surrounding properties, and have an effect on the appearance of the CA. I note that HLP Policy HE3 does not differentiate between development to the front or rear of properties.
20. The Council state that the fence stands at a height of around 2.41m, which the appellant does not dispute. I saw that the fence is disproportionately high in relation to the relatively small size of the rear yard, and the house itself.

21. The outbuilding is also of substantial size, running the length of one side of the yard. Taken in combination, its footprint and height result in a building that is significantly larger than the kinds of sheds or outbuildings that would normally be associated with a dwelling of this size in an urban area.
22. Instead, it is an excessively bulky structure that dominates the yard and is out of scale with the modest proportions of the dwelling. Again, there is little evidence that such structures are in keeping with the prevailing character of development in the rear residential plots within the CA. Furthermore, they are at odds with the character of the area described in the Appraisal.
23. Taking these factors in combination, I conclude that the development unacceptably harms the character and appearance of the appeal site, and in turn, the significance of the wider CA. Accordingly, the development conflicts with the overarching statutory duty as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, which must be given considerable importance and weight. In addition, the scheme fails to comply with HLP Policy HE1, which seeks to preserve, protect and positively enhance all heritage assets.
24. Although serious, the harm in this case is less than substantial, within the meaning of the term in paragraph 199 of the National Planning Policy Framework (NPPF). Paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 202 requires that, where a proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal.
25. The appellant states that the roller shutter door was installed for security purposes in a high crime area. Whilst I acknowledge this concern, there is no evidence that this matter could not be addressed through a form of development that is more sympathetic to the significance of the CA. The appellant argues that the appeal scheme does not harm the CA. However, for the reasons set out above, I am unable to agree with this argument.
26. In summation, I find that insufficient public benefits have been identified that would outweigh the harm I have identified to the heritage asset. The scheme therefore conflicts with the NPPF, which directs, at paragraph 199, 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.
27. The appeal on ground (a) therefore fails.

The appeal on ground (f)

28. 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.
29. The gist of the appellant's argument is that, because he does not agree that the works harm the CA, they should be left in place. However, this would not achieve the aim of the notice, which is to remedy the breach. This can only be achieved by the requirements as set out.

30. The requirements are therefore commensurate with that purpose, and so the appeal on ground (f) fails.

The appeal on ground (g)

31. The appeal on ground (g) is that the time given to comply with the notice is too short.

32. The appellant argues that, given the work required by the notice, the timescale of three months is not just or appropriate. However, he does not suggest an alternative timescale, and provides little detailed information or evidence as to why a greater time should be needed. In any event, I am mindful that the Council have the power to extend the compliance period, if they see fit. Whilst this is entirely a matter for the Council's discretion, it would be open to the appellant to ask for an extension of time, should it prove necessary.

33. On the evidence before me, I therefore consider the period of three months to be a reasonable period in which to comply with the requirements of the notice.

34. As a result, the appeal on ground (g) fails.

Conclusion

35. For the reasons above, the appeal is dismissed, the deemed planning application is refused, and the enforcement notice is upheld.

Elaine Gray

INSPECTOR