



Appeal Decision

Site visit made on 5 April 2022

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 24 May 2022

Appeal Ref: APP/X1355/C/22/3290662

School House, Front Street, Quebec, Durham DN7 9DF

- 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 Charles Ryan against an enforcement notice issued by Durham County Council.
 - The enforcement notice is dated 22 December 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission operational development consisting of a two storey side extension to the former detached garage with workshop above.
 - The requirements of the notice are: 1. Demolish the entire two storey side extension to the former detached garage with workshop above. 2. On completion of step 1 permanently remove all building materials and waste generated from the demolition of the two storey side extension from the land. 3. On completion of step 2 rebuild the section of dry stone wall that was removed to facilitate the building of the extension. The wall must be rebuilt with natural stone of a similar colour and composition to match the existing dry stone wall which forms the border with the adjacent cemetery. The rebuilt wall must be of a height consistent with the existing boundary wall at that location. The rebuilt wall must reconnect with either end of the existing boundary wall at the same height. 4. Mortar that has been applied between the stones of the dry stone wall at either end of the existing boundary wall must be removed. 5. On completion of step 4 if sections of the wall require rebuilding the wall must be rebuilt as a dry stone wall. If additional materials are required to facilitate the rebuild they must be of natural stone of a similar colour and composition to match the existing dry stone wall which borders the adjacent cemetery.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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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 School House is a detached dwelling in its own grounds located on the main street in the village. Planning permission ref: 1/1995/0237/3527 was given in 1995 for a detached outbuilding comprising a garage with a workshop

above. The unauthorised development is a mono-pitched extension to the existing outbuilding.

4. The appellant argues that there has not been a breach of planning control because the development falls within permitted development rights. I have had regard to Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015, which relates to the provision within the curtilage of a dwellinghouse of any building or enclosure required for a purpose incidental to the enjoyment of the dwellinghouse.
5. In terms of usage, I am satisfied that the uses within the outbuilding are incidental to the residential purposes of the School House. However, even if the usage is acceptable, development is not permitted if: the building has more than a single storey; the height of the building exceeds 2.5m and is within 2m of the boundary of the curtilage of the dwelling house; or the height of the eaves of the building would exceed 2.5m.
6. In this case, the extension clearly exceeds a single storey as it has a ground floor and a first floor. Moreover, it adjoins the boundary with the former church building next door, and so its height must not exceed 2.5m. It is clear that it does exceed that height, and so that factor alone takes it outside the permitted development limits under Class E. Planning permission is therefore required for the structure.
7. The appeal on ground (c) fails.

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

Main issue

8. The main issue is the effect of the development on the character and appearance of the surrounding area, including the fabric of the neighbouring dwelling, which is a non-designated heritage asset.

Reasons

9. The neighbouring former church building, which has been converted to a dwelling, has been identified by the Council as a non-designated heritage asset. The church site as a whole is present on the 1860 Ordnance Survey map, including the stone boundary wall. From the evidence before me, and my observations on site, I agree that the building is of historic and architectural merit. It is of an attractive design, demonstrating the local vernacular building materials and style.
10. The former church occupies a prominent position, making a positive contribution to the pleasant character and appearance of the village, and also has communal value as a former place of worship in the community. The stone boundary wall is also a feature of value that visually frames the site. The appellant states that the section of wall affected was not historic, having been replaced some 30 years ago. However, even if some parts of the wall are of different ages, as a whole it contributes positively to the setting of the old church building.
11. Policy 29 of the County Durham Plan (CDP) requires that all development should contribute positively to an area's character, identity, heritage significance and townscape. CDP Policy 44 requires the significance of non-

designated heritage assets to be sustained. It directs that a balanced judgement will be applied where development impacts on the significance and setting of non-designated heritage assets.

12. To accommodate the unauthorised development, a section of the stone boundary wall has been removed. This has damaged the fabric of the wall and formed an unsightly gap where none previously existed. The gap has been filled with the side wall of the new extension. At the time of my visit, the new wall was finished in white render with a red brick base. These materials are out of keeping with the remainder of the natural stone wall.
13. By harming the fabric and appearance of the wall in this way, the development detracts from the setting of the former church building. The side wall is visible from the main road, which augments its harmful visual effect on the non-designated heritage asset, and on the character of the wider area. I accept that this location was hidden by undergrowth and trees for some time. However, as has been demonstrated, planting may not be relied on to mitigate unsympathetic development as it can be removed at any time.
14. At paragraph 203, the National Planning Policy Framework (NPPF) directs that in weighing schemes that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss, and the significance of the heritage asset.
15. The appellant contends that the development was carried out to cover the staircase on the side of the outbuilding for health and safety reasons. He also makes reference to the stabilisation of the surrounding area. However, there is no evidence of any need for part of the stone wall to be removed to achieve these aims. It may be that the appellant's requirements could have been met by an alternative proposal that would have avoided the harm to the boundary wall. Furthermore, there is no evidence of any benefit arising from the unauthorised development that would be sufficient to outweigh the harm I have identified.
16. I therefore conclude that the development unacceptably and unjustifiably harms the character and appearance of the non-designated heritage asset, and also of the surrounding area. It therefore conflicts with CDP Policies 29 and 44, and with the NPPF, which seeks to conserve and enhance the historic environment.
17. I have taken into account the appellant's comments on works within the curtilage of the former church property that he considers have diminished its character. However, even if such harm has occurred, it does not justify the grant of planning permission in this particular case.

The appeal on ground (f)

18. The appeal on ground (f) is that the steps required to comply with the requirements of the notice are excessive.
19. In his evidence, the appellant refers to the unfinished frontage of the wall and indicates that a stone fascia is to be applied to provide a completed wall. However, the application of a stone finish to the wall would not make the development acceptable in planning terms, because the gap in the boundary wall would remain, and the stone cladding would almost certainly be of a

different visual character. Therefore, this would not amount to a lesser step that would achieve the aims of the notice.

20. He also refers to matters of ownership, but this is a private matter to be addressed between the relevant parties, and does not have a bearing on the outcome of the appeal.

21. The aim of the notice is to remedy the breach. This can only be achieved by the requirements as set out. The requirements are therefore commensurate with that purpose, and so the appeal on ground (f) fails.

Conclusion

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

Elaine Gray

INSPECTOR