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## Appeal Decision

Site visit made on 10 May 2022

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

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

**Decision date: 8 June 2022**

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**Appeal Ref: APP/C1625/C/22/3290767**

**Land and premises at 1 Fort View Terrace, Bridge Street, Cainscross, Stroud, Gloucestershire GL5 3ES**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Richard Churchill against an enforcement notice issued by Stroud District Council.
  - The notice was issued on 6 December 2021.
  - The breach of planning control as alleged in the notice is: Without planning permission, the alteration to the roof of a residential property located in a conservation area, resulting in the enlargement of the roof through the construction of two roof dormers.
  - The requirements of the notice are to: Remove completely from the property the unauthorised roof dormers as now built and return the roof slopes to their form prior to the introduction of the unauthorised development the subject of this notice.
  - The period for compliance with the requirements is: Six months.
  - The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.
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### Decision

1. The appeal is dismissed and the enforcement notice is upheld.

### Preliminary Matters

2. There has previously been a Section 78 Planning Appeal in respect of the dormers subject to the current enforcement notice, reference APP/C1625/D/21/3267859. The appeal was dismissed on 31 March 2021.

### The appeal on ground (f)

3. An appeal on ground (f) 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 or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
4. Under section 173(4) of the 1990 Act, when serving an enforcement notice the council may seek to (a) remedy the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or (b) remedy any injury to amenity which has been caused by the breach.
5. Based on the requirements of the notice, it is clear from the council's appeal statement that the purpose of the notice is to remedy the breach, i.e. purpose (a), above.

6. The appellant has proposed that the dormers could be re-clad, removing the brown UPVC cladding and replacing it with grey slate hanging tiles. It is suggested that removing the modern material would help the massing blend into the background of the existing slate roof and reduce any potential harm to the setting of the conservation area (CA).
7. The proposed alternative materials are, in effect, a different scheme that would materially affect the external appearance of the building, and hence would, considered in isolation, require planning permission. But it remains the case that the works enforced against are development that requires planning permission. Whilst the council's statement indicates that it welcomes the use of materials that are in-keeping with the host dwelling and the wider character of the area, it does not accept that this would overcome the planning objection which is that the roof dormers are not of an acceptable design. Furthermore, the Inspector who determined the previous appeal also found harm with the scale of the dormers which he considered to be out of proportion with the host dwelling and to neither preserve or enhance the character or appearance of the CA.
8. But in any event, and bearing in mind the purpose of the notice, the case law is clear that where there is a ground (f) appeal but there is no appeal on ground (a), and accordingly no deemed planning application, it is not within the power of the Inspector to enable the implementation of a scheme of development alternative to that which was the subject of the enforcement notice. Put simply, I do not have the power to consider the works put forward as a lesser step, and it follows that this appeal cannot succeed.

*S A Hanson*

INSPECTOR