



Appeal Decision

Hearing held and site visit made on 26 April 2022

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2022

Appeal Ref: APP/Y2620/C/21/3266604

19 Station Road, Great Ryburgh, NR21 0DX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (hereafter "the Act").
- The appeal is made by A E Simcock against an enforcement notice issued by the North Norfolk District Council.
- The enforcement notice was issued on 18 December 2020.
- The breach of planning control as alleged in the notice is without planning permission,
 - (i) Operational development consisting of altering the roofline of the property situated on the Land (the Property) from a hipped roof to a gable end for the purpose of creating living space in the roof.
 - (ii) The insertion of two dormer windows on the front elevation of the Property and a dormer window on the rear elevation.
- The requirements of the notice are:
 - (i) Restore the roof of the Property to its original appearance and proportions, re-using existing materials where possible and making up any shortfall with materials which closely match the existing.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (e), (f) and (g) of the Act. 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.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections and a variation in the terms set out below in the Formal Decision.

Procedural Matters

1. The appeal had initially been lodged to also include grounds (b), (c) and (d). However, the appellant confirmed withdrawal of these grounds at the start of the Hearing.

Appeal Site and Background

2. No. 19 Station Road is a detached building that has been internally subdivided. However, as identified on the plan attached to the enforcement notice it is the whole of the building that is subject of the notice and of this appeal.

The Enforcement Notice

3. The alleged breach of planning control is set out at Section 3(i) of the enforcement notice. In addition to the hip to gable enlargement described at Section 3(i), the works carried out also include a conjoined two-window dormer extension to the front roof slope, a dormer extension to the rear roof slope, timber cladding to the dormers and to the new gable end, and a south-facing

roof light. This describes the works carried out more precisely than as set out in Section 3(ii) of the notice.

4. As such, the parties agreed that the description of works at 3(ii) should be corrected accordingly. In doing so there would be no need to add further requirements at Section 5 of the notice because the restoration of the building to its former condition would necessarily include the removal of the cladding, and the Council do not seek to enforce against the south-facing rooflight. For the sake of clarity in specifying the relevant point in time for restoration, I will replace the words "original appearance and proportions" in Section 5 with the words "condition that existed prior to the breach of planning control being carried out".
5. I am satisfied that I can make these corrections, using powers available to me under section 176(1) of the Act, without injustice resulting to any party.

Ground (e) Appeal

6. It was argued that a copy of the notice was not served on the appellant as required by section 172 of the Act. In response, the Council say that the notice was properly addressed and served on the appellant by posting it through the letterbox at the appellant's property on Station Road on 18 December 2020.
7. In the ensuing discussion I heard that the frontage of the appellant's property onto Station Road has two doors, each with its own letterbox, but only one of which serves the residential part of the appellant's property, and it may be the case that the notice was served through the other letterbox. Nonetheless, the appellant confirmed she had possession of the notice within a few days afterwards. On balance I consider the notice to have been properly served.
8. The above notwithstanding, there can be no doubt that the appellant received a copy of the notice at some point. Moreover, she has been able to seek advice, lodge an appeal, and have her case made out at the Hearing. Hence, even if there had been a failure, it did not substantially prejudice her in making her appeal. In such circumstances s176(5) of the Act gives me the power to disregard any failure to serve the notice on anyone as required, where they have not been substantially prejudiced. Therefore, even if there had been a failure in service, the appeal on this ground would be unsuccessful.
9. The appeal on ground (e) therefore fails.

Ground (a) Appeal/Deemed Application for Planning Permission

10. The **main issue** is the effect of the works upon the character and appearance of the host building and the Great Ryburgh Conservation Area (GRCA) in which it is located. In this regard I am required by law¹ in reaching my decision to pay special attention to the desirability of preserving or enhancing the character or appearance of the GRCA.
11. Station Road and its immediate surrounds hosts much of the central core of the historic built-up area of Great Ryburgh village. Within this area the appeal building sits close to a sharp bend in Station Road at one end where it turns sharply to the west. From this point, looking south, views are framed by the buildings on both sides of Station Road and terminate at the far end with the

¹ Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

somewhat striking and imposing view of the tall Norman round-tower and octagonal belfry of the Church of St. Andrew, a Grade II* Listed Building.

12. In between the church and the appeal building, on the same eastern side of the road, there is a long continuous terrace of two storey buildings dating originally from the 17th/18th Century. Some of the features of the terrace include rendered painted elevations with traditional timber doors and windows, pantiles or slates to roofs, and dentil coursed eaves. All of these are Grade II Listed Buildings other than the two end cottages nearest the appeal building. Buildings along the opposite of the road are characterised in part by the red brick form of the Victorian era, evidenced in the school buildings opposite the appeal site and adjacent houses.
13. The appeal building was historically a blacksmith's forge, later being put to various community and commercial uses. In my view its single storey form, and set-back position from the road at the centre of the village, reflects its original functional relationship as a smithy in serving the village and the surrounding area.
14. The appeal building's physical form and appearance has evolved over time. In 2003 planning permission was granted to convert the building from a solicitor's office to a residential dwelling. Mr Buxton, representing the appellant, stated that a white uPVC door and windows were installed to the front elevation as part of the conversion works. However, the permission (by virtue of condition 2 and the application form details) required all works to be finished externally in materials matching those existing, including white painted timber joinery.
15. In 2013 planning permission was granted for a change of use of the building to a mixed use of residential and hot-food takeaway. This involved a reduction in the amount of residential floorspace. Notably, the approved application details specified that both existing and proposed external materials included white uPVC windows and doors. To my mind the introduction of the white uPVC bow windows and door across the front elevation of the building were unfortunate as they are prominent modernising features inappropriate to the historical and social interest of the host building. However, this does not weigh against allowing the appeal given that they have been permitted.
16. Following on from the above, the value and contribution of the building to the character and appearance of GRCA had already been diminished prior to the unauthorised works subject of the appeal, a point Mr Young for the Council fairly acknowledged. Nonetheless, I agree with the Council that it is not the case that the building makes little or no contribution to the GRCA. I consider (minus the unauthorised works) that its simple traditional architectural form, scale, orientation and prominent position in the historic built-up core of the village, together with its historic and social interest, are integrally important to the character and appearance of the GRCA.
17. In summary therefore all of the buildings I have described, including the appeal building, together with the short and longer range views, taken together, contribute greatly to the historic character and appearance of the GRCA, which overall is very well preserved and of considerably high quality.
18. Turning to the works carried out, the northern hipped section of roof has been extended outwards so as to form a gable end elevation, the upper section of which has been finished in dark stained timber cladding. The two double

casement dormer windows at the front are conjoined by way of a raised roof section in between them, providing internal headroom at the head of the internal staircase, and in order to access the two first floor rooms. This middle section also has two front facing windows. All of the windows are double glazed grey uPVC, with the front elevation of the entire structure finished in dark stained timber cladding under a pantile roof. To the rear roof slope a wedge shaped windowless dormer has been added providing internal space for a small shower room.

19. Contrary to the appellant's view I consider that the whole structure of the conjoined roof dormer at the front is starkly at odds with the otherwise simple and unfussy symmetry of the formerly twin-hipped roof, due firstly to its off-centre position towards the northern end. This incongruity is then amplified by the alteration of the main roof to a pitched and gable end, being asymmetric with the hipped southern end. Even if, as was argued, the building should be regarded now as two semi-detached units, there is no mirroring or symmetry in the roof form which would be more appropriate in terms of traditional semi-detached buildings in the area. Additionally, the proportions and overall design of the conjoined twin dormer results in a boldly modernising and top-heavy feature which pays little regard to the form and proportions of traditional roof dormers in the area. These alterations are prominent, highly visible and noticeable in the street scene. Taking all these factors together I find that these works harmfully and significantly detract from the character and appearance of the host building and the GRCA.
20. The rear windowless dormer, while less obvious of course, is nonetheless an oddity in terms of its appearance. Taken in isolation its harm to the character and appearance of the building and in the context of the wider area is limited. However, it cannot be said to preserve or enhance the character or appearance of the GRCA.
21. Other properties, roof forms and dormers were shown to me in the surrounding area. However, none of those are the same as the development subject of this appeal and do not lead me to reach any different conclusions.
22. I have considered whether planning permission could be granted wholly or in part with the imposition of planning conditions. However, removing or painting the new gable end cladding and/or removal of the central conjoining element of the front roof dormer would not overcome the harm I have described.
23. In the language of paragraph 202 of the National Planning Policy Framework (2019) the harm to the GRCA, as a designated heritage asset, is less than substantial and so should be balanced against any public benefits. In this regard the use of the building for residential purposes is not an additional benefit, as was argued, given that this benefit was already realised through the earlier grant of planning permission for such use. Even if it were an entirely new residential unit, it would not outweigh the harm I have previously described.
24. To conclude, the development carried out results in significant harm to the character and appearance of the host building and fails to preserve the character or appearance of the Great Ryburgh Conservation Area. As such, it conflicts with the requirements of Policies EN4 and EN8 of the North Norfolk Core Strategy (2008) and with the Development Plan as a whole.

25. The appeal on ground (a) and the deemed application therefore fail.

Ground (f) Appeal

26. I have already concluded that the development should not be granted planning permission either wholly or partially, as set out in the ground (a) appeal earlier. The question to be answered in this ground (f) appeal is whether the requirements of the notice exceed what is necessary to remedy the breach of planning control, or, as the case may be, to remedy any harm to amenity resulting from the breach.

27. In this regard the notice does not require cosmetic alterations or treatments to the roof as constructed, it instead requires the restoration of the roof back to its condition prior to the breach taking place². It is clear therefore that the purpose of the notice is to *remedy the breach of planning control*.

28. Given that the purpose of the notice is to remedy the breach of planning control it is therefore clear that the requirement to restore the roof back to its former condition cannot be an excessive requirement, because it goes no further than remedying the breach. Any lesser requirements would not fully remedy the breach.

29. The appeal on ground (f) therefore fails.

Ground (g) Appeal

30. The ground of appeal is that the period of time for compliance with the enforcement notice requirements falls short of what should reasonably be allowed. The notice requires compliance within 3 months, although the Council conceded at the Hearing that 6 months would be more appropriate. The appellant seeks a period of 12 months.

31. I am mindful that the harm resulting from the breach of planning control should be remedied as soon as possible. I also acknowledge that securing and scheduling appropriate contractors, followed by careful dismantling and restoration of the roof during more inclement weather during autumn/winter months could take longer than 6 months. However, 12 months is unduly long and unjustified, it would be more akin to the grant of a temporary planning permission.

32. In balancing the parties' arguments and concerns I consider that 7 months would be more reasonable. The appeal on ground (g) succeeds to this limited extent and I will vary the notice accordingly.

Formal Decision

33. It is directed that the notice be corrected and varied by:

- in Section 3(ii) after the word "insertion" delete the remainder of the sentence and substitute instead the following words: "of a conjoined two-window dormer extension to the front roof slope, a dormer extension to the rear roof slope, timber cladding to the dormers and to the new gable end, and a south-facing roof light;

² Other than the south-facing rooflight

- in Section 5 delete all of the words before the word “re-using”, and substitute instead the following words: “Other than the south-facing rooflight restore the roof of the property to the condition that existed prior to the breach of planning control being carried out,”;
 - In Section 6 delete 3 months and substitute instead 7 months.
34. Subject to the corrections and 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 Act.

Thomas Shields

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Christopher Buxton	Agent for the Appellant
Audrey Simcock (Buxton)	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Kevin Peacock	Planning Enforcement Officer
Joseph Barrow	Senior Planning Officer
Chris Young	Team Leader, Conservation and Design

INTERESTED PERSONS:

Glen McCarthy	Local resident
A Burr	Local resident
Patsy Adams	Clerk to the Ryburgh Parish Council

DOCUMENTS SUBMITTED AT THE HEARING:

DOC 1 2003 planning permission details and drawings (Ref: 20030168)

DOC 2 2013 planning permission details and drawings (Ref: PF/12/0904)