



Appeal Decision

Site visit made on 4 July 2022

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 8 August 2022

Appeal Ref: APP/N4720/C/22/3295418

Land at 10 Laurel Terrace, Armley, Leeds LS12 2BZ

- 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 1990 Act as amended).
- The appeal is made by Mr Ansar Mahmood against an enforcement notice issued by Leeds City Council.
- The notice, numbered 18/01069/UHD3, was issued on 22 March 2022.
- The breach of planning control as alleged in the notice is, without planning permission the erection of a dormer roof extension to the front of the property.
- The requirements of the notice are to: Step 1. Remove the unauthorised front dormer in its entirety; Step 2. Make good any repairs to the walls, windows and roof of the host property, with matching materials to the host property; and Step 3. Remove any building materials and detritus from the site resulting from Step 1-2.
- The period for compliance with the requirements is: Three months.
- The appeal is proceeding on the ground set out in section 174(2)(a) 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.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

1. The breach of planning control relates to the erection of a dormer roof extension to the front of the appeal property, which I was able to see on my site visit. In their 'Facts to Support Ground A', the appellant submits that 'the house has been stood in its current form for 4 years'. I therefore consider the appeal to be also proceeding on ground (d). The Council has addressed this matter in its Statement, upon which the appellant has had the opportunity to respond. I am therefore satisfied that no injustice would be caused by me taking this approach.
2. The Council has confirmed that the rear dormer roof extension on the appeal property is the subject of a separate enforcement case¹, but does not state whether an enforcement notice has been issued in this respect. At the date of this decision no appeal had been received by the Planning Inspectorate relating to the rear dormer extension. Therefore and for the avoidance of doubt, my decision relates solely to the erection of the dormer roof extension to the front of the appeal property.

¹ Enforcement Case: 22/00433/UHD3.

The appeal on ground (d)

3. The appeal on ground (d) is that at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. In an appeal against an enforcement notice on ground (d), the burden of proving relevant facts is on the appellant, and the relevant test of the evidence is on the balance of probability.
4. In this context, I consider the main issue to be, whether the appellant has proved on the balance of probability that the front dormer extension enforced against was substantially completed more than four years before the date of the issue of the enforcement notice, i.e. more than four years before 22 March 2022, so as to be immune from enforcement.
5. The Council states that it was first notified of a front dormer extension under construction on 5 October 2018. A photo taken by a Council officer at that time has been submitted showing the dormer extension being built. Whilst the image is not dated, I have no reason to question the Council's veracity on this matter. In addition, Google Maps images have been submitted with one dated May 2018, which shows that no front dormer extension was present on the building at that time.
6. Conversely, the appellant has not submitted any information to substantiate the claim that the house has been stood in its current form for four years. Nor have they disputed the Council's evidence.
7. Taking the above into account, I find that there is nothing in the evidence before me which proves on the balance of probability that the front dormer extension was substantially completed before 22 March 2018.
8. For the reasons given, the appeal on ground (d) fails.

The appeal on ground (a)

9. The appeal on ground (a) seeks that planning permission should be granted for what is alleged in the notice, namely the dormer roof extension to the front of the property.
10. From the evidence before me the main issues are: i) the effect of the development on the character and appearance of the host building and ii) whether the development conserves or enhances the character or appearance of the Armley Conservation Area (the ACA).
11. The appeal property is a mid-terrace dwelling of traditional stone and slate materials and construction. With the exception of the adjoining property, No 12 Laurel Terrace, no other property on the terrace possesses a dormer extension at the front.
12. The dwelling is identified as an 'unlisted positive building' within Character Area 3, 'St Bartholomew's', of the ACA². As such, I have had regard to s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), which requires that special attention be given to the desirability of preserving or enhancing the character or appearance of the conservation area.

² Armley Conservation Area Appraisal, 2007.

13. The character and appearance and thus the special interest and significance of the ACA stem, in part, from its surviving historic street pattern and tight-knit terraces, of which Laurel Terrace is one. Whilst the terraces vary in age, architectural style and materials, when considered individually, they possess and provide a degree of uniformity to the street scene and contribute to the area's local distinctiveness. As an important built component of the ACA's townscape, Laurel Terrace supports and sustains the positive qualities which contribute to the character and appearance of the ACA as a whole and thus to its significance as a designated heritage asset.
14. The front dormer extension extends over practically the whole width and pitch of the front roof slope of No 10 Laurel Terrace. Its considerable size, bulk and massing results in a top-heavy and overly dominant addition to this modest property. Moreover, its rudimentary box form and design, including fenestration with a contrasting horizontal emphasis, detrimentally alter and undermine the building's attractive composition. These harmful effects are exacerbated by the use of overtly stark and modern white uPVC cladding which jars with the subtle tones of the building's traditional materials.
15. The front dormer extension's presence, which is readily visible and unduly conspicuous from adjacent public routes, disrupts the generally clean and uninterrupted roofscape of the terrace, highlighting the structure's discordance on the building and within the townscape. Given the prominence of the building within the street scene, the adverse effects to No 10 Laurel Terrace also fail to preserve the character and appearance of the ACA as a whole. In doing so, the development incrementally harms the ACA's significance as a designated heritage asset.
16. Having regard to the extent of the development, I consider the harm to the ACA in this instance to be 'less than substantial' but, nevertheless, of considerable importance and weight. In accordance with paragraph 202 of the National Planning Policy Framework (the Framework), this harm needs to be weighed against the public benefits of the proposal.
17. The front dormer extension provides additional accommodation in a property which is inhabited by a young family. Whilst I recognise that the extra space may enhance the living conditions of current and future occupiers of the dwelling, any benefits accruing from this are principally of a private nature. The dormer extension's construction would have generated some wider economic benefits which would have flowed to the public at large. However, given the size and nature of the development these would have been very modest. Consequently, I find that the public benefits generated by the development are not sufficient to outweigh the identified harm.
18. In support of the appeal the appellant has drawn my attention to what are stated to be similar developments which have been granted planning permission by the Council³. However, only application references for the developments cited have been provided. The addresses of the properties or the size, form, design and position of the developments have not been submitted. As such, I am unable to make any meaningful comparisons between those developments and the appeal before me.

³ Application Refs: 24/406/05/FU; H24/340/89; 06/02802/FU; and 19/05167/FU

19. An image of what the appellant asserts to be a comparable front dormer extension on a property on nearby Brooklyn Terrace has also been submitted. However, that property is not sited within the ACA and any development is considered under a different legislative and policy context in comparison to the appeal property.
20. The general proliferation of front dormer extensions on other properties in the area is also highlighted by the appellant. Whilst I acknowledge the presence of several other dormer extensions on buildings in the locale, many of these are smaller in size and scale and/or constructed of more sympathetic materials when compared to the appeal development. In addition, from the limited evidence before me, I cannot be certain that they are not time immune from enforcement action; that they do not benefit from permitted development; or that they were not considered under a different legislative and/or policy context.
21. All of these factors severely limit the weight I can attach to these matters in my determination of the appeal.
22. Drawing all of the above together, I conclude that the development harms the character and appearance of the host building and does not conserve or enhance the character or appearance of the ACA. In these respects the development fails to meet the requirements of s72(1) of the Act and the provisions within the Framework which seek to conserve and enhance the historic environment.
23. It also conflicts with Policies P10 and P11 of the Leeds Core Strategy (2014); and Policies GP5 and BD6 of the Leeds Unitary Development Plan (Review 2006) (the UDP). Together, these policies require development to be of a high quality and appropriate to its context; conserve and enhance the historic environment; resolve detailed planning considerations including design; and respect the scale, form, detailing and materials of the original building. It is also contrary to the ACA Appraisal (2007) and the ACA Management Plan (2008), in relation to the identified harmful effects of flat roofed front dormer extensions and ill-considered home improvements.
24. Conflict with Policy N19 of the UDP is also cited in the Council's evidence, but a copy of the policy has not been provided and so I have not referred to it.
25. For the reasons given, the appeal on ground (a) fails.

Formal Decision

26. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

F Cullen

INSPECTOR