

Appeal Decision

Site visit made on 5 October 2022

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 10 October 2022

Appeal refs: APP/A0665/C/22/3300137; APP/A0665/C/22/3300173
11 Peel Hall Lane, Ashton Hayes, Chester CH3 8DE

- The appeals were made by Mr Christopher Pare, (ref: APP/A0665/C/22/3300137) and by Mrs Kate Pare, (ref: APP/A0665/C/22/3300173), under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991, (the Act), against an enforcement notice issued by Cheshire West and Chester Borough Council.
- The notice was issued on 5 May 2022; reference No. 20/00390/EOPDEV.
- The breach of planning control was: Without planning permission, adding timber boarding to the front elevation of the property.
- The requirements of the notice are:
 - Option 1: Remove the timber boarding in its entirety, remove all resulting materials from the land as outlined in red on the plan attached to the notice, and restore the front elevation of the house to its previous condition.
 - OR**
 - Option 2: paint or stain the timber boarding cream or white.
 - OR**
 - Option 3: remove the timber boarding from the bottom half of the front elevation (below the eaves). Retain timber boarding on the top half of the front elevation (above the eaves) and paint or stain the remaining timber boarding cream or white.
- The period for compliance with the requirements is three months.
- Both appeals were made on ground (a) as set out in the amended Act. Mr and Mrs Pare also submitted planning application 21/00264/FUL in January 2021 for the retention of the enforcement notice timber cladding. That was refused by a decision dated 22 December 2021. No appeal was made within the statutory period against that decision. Nevertheless, the enforcement notice applications for planning permission deemed to have been made on ground (a) fall to be considered.

Summary of decision: The enforcement notice is upheld. Planning permission is not granted on the applications deemed to have been made to retain the timber cladding to the gable wall of No. 11 Peel Hall Lane.

Appeal development

1. The appeals concern the plain horizontal cedar wood boarding that has been fitted to the entire road facing gable wall of the detached dwelling at No. 11 Peel Hall Lane, Ashton Hayes. The cladding was said to have been fitted in June 2020.

2. No. 11 stands in an attractive length of the residential Peel Hall Lane. Its mixture of old terraced cottages and period houses and more recently built red brick houses in a variety of sizes, designs and plots blend well together.

The s.174 appeals on ground (a)

3. The deemed planning applications that arise from the appeals against the enforcement notice on ground (a) are applications for the grant of permission for the retention of the timber boarding fixed to the front elevation of the dwelling at No. 11.
4. The Council's reason for issuing the enforcement notice said the timber cladding material finish, by reason of its colour, form and the likely degradation of colour over time, would result in development out of keeping with and be visually intrusive to the character and appearance of the original dwelling and the predominant character of development in the street and surrounding area. That was contrary to policy ENV6, DM3 and DM21 of the Cheshire West and Chester Council Local Plan, (Parts 1 and 2). There was also conflict with advice in Cheshire West and Chester Council House Extensions and Domestic Outbuildings Supplementary Planning Documents, the National Planning Policy Framework and the Ashton Hayes and Horton-Cum-Peel Neighbourhood Plan.
5. As the 2 appeals against the enforcement notice are identical, I deal with them together. The decision turns on the acceptability of the appearance of the timber cladding to the gable wall of No. 11 on the immediate street scene having regard to local planning guidance.
6. The orientation of the house at No. 11 may suit the narrow deep site. But the effect of its appearance in the street scene is that because its gable wall faces the road, the house does not fit as harmoniously into the view from the road as do most neighbouring properties. I consider that this discordancy has been somewhat exacerbated by the timber cladding now fitted to the gable wall. The plain untreated cedar wood has weathered to a somewhat dismal shade of grey since installation, with a few discolouring dark runs down from the tiles at the roof slope edge. The overall effect has diminished the look of the road facing gable wall, already its least attractive aspect to the road. In its present form, I agree with the Council that material harm to the character and appearance of the original dwelling has been caused. The plain untreated timber boarding is not weathering well, producing a finish out of keeping with the other white painted render finish to most of the external walls of the house. The resulting effect is an appearance out of harmony with its immediate surroundings. That is in conflict with local plan policies set out above, particularly with Policy DM3 that requires a high standard of design that respects the character and protects the visual amenity of the local area. The appeals on ground (a) fail. The enforcement notice is upheld.
7. Although the ground (a) deemed applications for planning permission to retain the timber boarding fail, the Council Officer's report leading to the issue of the enforcement notice states: *"The planning application was refused due to its colour and form. It has been considered, through discussion with a principal officer that there is scope to allow for some wood cladding on the front elevation, if the colour and form was altered. As such the enforcement notice would also allow the following options, as a means of taking lessors steps to remedy the harm."* The requirements of the enforcement notice as issued included *Option 2: paint or stain the timber boarding cream or white.*

8. Section 173(11) of the Act provides that (a) where an enforcement notice in respect of any breach of planning control '*could have required buildings or works to be removed or any activity to cease, but does not do so; and (b) all the requirements of the notice have been complied with, then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of s.73A of the Act in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities*'. It follows that, if the road facing gable wall timber cladding at No. 11 was painted cream or white within 3 months of the date of this decision, (in compliance with Option 2), there would be compliance with the requirements of the notice and planning permission for the retention of the cladding would thereby be granted by virtue of s.173(11) of the Act. As the 3 requirements of the notice are alternative options, compliance with any of the options would amount to compliance with the requirements of the enforcement notice.

FORMAL DECISION

Appeal refs: APP/A0665/C/22/3300137; APP/A0665/C/22/3300173

9. The appeals are dismissed. Planning permission is not granted on the applications deemed to have been made to retain the timber boarding attached to the road fronting gable wall to the dwelling at No. 11 Peel Hall Lane, Ashton Hayes, Chester CH3 8DE.

John Whalley

INSPECTOR