



Appeal Decision

Site visit made on 23 January 2023

by **A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC**

an Inspector appointed by the Secretary of State

Decision date: 20 February 2023

Appeal Ref: APP/R4408/C/22/3300685

36 Shepherd Lane, Thurnscoe, Rotherham S63 0JS

- 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 E Lockwood against an enforcement notice issued by Barnsley Metropolitan Borough Council.
- The enforcement notice was issued on 13 May 2022.
- The breach of planning control as alleged in the notice is:
- Development has taken place pursuant to planning permission ref: 2019/1574 (Two storey side extension and single storey rear extensions to dwelling and erection of detached garage/garden store) granted by the Council on 5 March 2020 and planning permission ref: 2019/0646 (Two-storey side extension and single storey rear extensions to dwelling and erection of detached garage/garden store). However, the development which has been constructed on site is not in accordance with the approved plans and conditions on either planning application granted by the Council. The development has therefore been constructed in a way which is materially different to that approved by the Council and therefore does not have planning permission.
- The requirements of the notice are:
 - (i) Alter and redesign the two-storey extension so that;
 - It incorporates and includes obscured glazing (to level 3 on the Pilkington glass obscurity scale (Medium) to the side elevation window (as shown in Appendices 1 & 2) of which is to be retained in perpetuity.
 - It is redesigned so that the roof design includes decorative eaves and decorative barge boards as shown on Appendix 2.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, and the enforcement notice is quashed and planning permission is granted in the terms set out in the Formal Decision

The appeal on ground (a)

1. Under this ground of appeal, planning permission is sought for the development as built. The appeal on ground (a) is effectively to retain the two storey side extension and single storey rear extensions to the dwelling and the detached garage/garden store which have been built on the site. The main issues are:
 - i. the effect of the development on the setting of the Grade II listed building known as Hall Farmhouse and the special historical and architectural qualities it possesses and the character and appearance of the area, generally; and

- ii. the effect on the living conditions of the occupants of an adjoining residential property with particular reference to overlooking and loss of privacy.
2. The appeal site comprises a two storey semi-detached residential property situated within a predominantly residential area. The house is located in a substantial plot of land with garden space to the rear, side and front. The house is constructed with stone external walls and a tiled roof. The Council contends that the two storey side extension to the appeal property has not been built in accordance with plans approved under planning permissions 2019/1574 dated 5 March 2020 or the plans approved under planning permission 2019/0646 dated 2 August 2019.

Heritage

3. The National Planning Policy Framework (the Framework) advises that when considering the impact on the significance of designated heritage assets, great weight should be given to their conservation. Hall Farmhouse is a Grade II listed building which was first listed in January 1985. It is a late eighteenth or early nineteenth century farmhouse constructed in brick with English Garden Wall bond with a renewed tile roof with stone slates to the rear and renewed brick stacks. The building has two storeys with an attic and three windows to the first floor. Other special architectural features include panelled door to the left of centre in plain ashlar limestone surround, flanking four pane sashes with projecting stone sills and gauged brick flat arches with limestone keystones. Hall Farmhouse and the adjacent barn have been extensively altered and incorporate a number of modern features such as UPVC windows and small extensions. Furthermore, a modern two storey dwellinghouse with a detached garage has been constructed adjacent to Hall Farmhouse, between the listed building and the appeal site.
4. The appeal building is not a heritage asset, although it is argued that it is situated within the setting of the Grade II listed Hall Farmhouse. The two storey extension to 36 Shepherd Lane does not incorporate the roof design shown on the approved plans with decorative eaves or decorative barge boards. The Council considers their omission to be significant in terms of the effect of the completed extension on the setting of the Listed Building and the area, generally.
5. The appeal property is situated some distance from the Listed Building and there is a main road, housing and a recently completed residential development between them. The appeal building does incorporate some interesting historic features but is not at all significant in the setting of the Listed Building. In addition, there is great variety in the design and appearance of residential and other properties in the locality which do not feature design detailing such as those shown on the approved plans. The new residential development immediately adjacent to the Listed Building exhibits modern features and has no decorative eaves, barge boards or other period features.
6. The development has been completed to a high standard with matching external materials such as stone work and is of a scale and design which harmonises with the existing building and its surroundings. It maintains the overall mixed mainly residential character of the street scene and in no way dominates the locality from a visual perspective.

7. Therefore, as built, the two storey side extension preserves the setting of the Grade II listed building known as Hall Farmhouse and the special historical and architectural qualities it possesses and has no harmful effect on the character and appearance of the area, generally. As such it complies with Policies D1, GD1 and HE3 of the Barnsley Local Plan 2019 (the LP) and advice in the House Extensions and Other Domestic Alterations Supplementary Planning Document Adopted May 2019. Among other objectives these seek to ensure that the construction, design and materials are of high quality and developments affecting Listed Buildings should seek to conserve and where appropriate enhance that building's significance.
8. The main concern with respect to the living conditions of the occupants of a neighbouring residential property, No 2 High Street is a side window at ground floor level which does not have obscure glazing. The approved plans show two windows on the side elevation with obscure glazing.
9. The window in question is a secondary window positioned towards the front of the living room where it is unlikely to cause significant levels of overlooking. At present there is no boundary treatment between the appeal property and the neighbouring property 2 High Street and therefore, as I observed at my site inspection from both properties, there already exists significant and close overlooking between the garden areas. Therefore, privacy levels in the gardens are already significantly compromised. The extension has resulted in some encroachment towards the neighbouring residential property and its garden, but in my judgement the addition of a non-obscure glazed secondary window in the ground floor side elevation of the extension does not result in a significant adverse effect on the living conditions and residential amenity of existing and future residents.
10. Furthermore, there is significant separation between the side window and the habitable room windows in 2 High Street to the extent that the effect is only marginal rather than significant. In this regard I have taken account of the neighbour's comments regarding overlooking and loss of privacy, including his family's enjoyment of the property and the presence of children. However, whilst there is a marginal effect, in my judgement and on balance, the development does not result in a significant adverse effect on the living conditions of the occupants of an adjoining residential property with particular reference to overlooking and loss of privacy. Therefore, the two storey side extension as built complies with Policy GD1 of the LP which, among other objectives, seeks to ensure that proposals for development will be approved if there will be no significant adverse effect on the living conditions and residential amenity of existing and future residents and are compatible with neighbouring land.

Conclusion

11. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. Since the development that has been completed is acceptable as built in planning terms, I do not see any reason to impose conditions in this case. In these circumstances the appeal on ground (g) does not need to be considered.

Formal decision

12. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a two storey side extension and single storey rear extensions to dwelling and erection of a detached garage/garden store on land at 36 Shephard Lane, Thurnscoe, Rotherham S63 0JS.

A A Phillips

INSPECTOR