



Appeal Decisions

Site visit made on 19 April 2023

by D Boffin BSc (Hons), DipTP, MRTPI, Dip Bldg Cons (RICS), IHBC

an Inspector appointed by the Secretary of State

Decision date: 15th May 2023

Appeal A Ref: APP/B3030/C/22/3312501

'Land' on Two Acres, Oxton Hill, Southwell NG25 0RB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the 1990 Act). The appeal is made by Ms Vili Chung against an enforcement notice issued by Newark & Sherwood District Council.
- The notice was issued on 7 November 2022.
- The breach of planning control as alleged in the notice is:

Without planning permission, 'development' consisting of the erection of a gabled dormer to the roof slope on the principal elevation at the front of the property (as shown within Photographs 1 & 2 and identified with an 'X' on Plan A); 'development' consisting of the erection of a part-constructed single-storey extension at the eastern side of the property (as shown within Photographs 3, 4 & 5 and identified with an 'Y' on Plan A); 'development' consisting of a dormer window with timber cladding on the rear elevation (as shown within Photograph 6 marked 'Z' on Plan A); 'development' consisting of the construction of a rear extension (marked 'Z' on Plan A).
- The requirements of the notice are:
 - A. Demolish and remove the gabled projecting dormer window from the front elevation in full (marked 'X' on Plan A) and all associated works undertaken to enlarge the principal roof elevation of the dwelling, shown within Photographs 1 & 2. Save for the roof lights which may remain, return the roof slope of the front elevation to its condition prior to the installation of the gabled dormer window as shown on drawing no. 391.02 (Existing Elevations) submitted as part of application 22/01628/HOUSE (see Appendix 1). This requires the use of materials to match the roof as existing (noting that the roof has been subject to retiling) and the flat roof dormer window which has been removed may be reinstated in materials to match those on the original dwelling, to the previous installed proportions.
 - B. Demolish the part-completed eastern side extension (marked 'Y' on Plan A) including any foundations/base, (as shown within Photographs 3, 4, & 5) and reinstate any demolished external walls as they previously existed.
 - C. Apply to the rear extension the render proposed under application reference 22/01628/HOUSE, so that once completed the scale, design and materials used in the rear extension comply with those submitted as part of application reference 22/01628/HOUSE regarding this element only of the planning application.
 - D. Remove the timber cladding to the rear flat roof dormer window (marked 'Z' on Plan A and shown within Photograph 6) and replace with tiles to match the colour of those on the existing dwelling (noting that the roof has been subject to retiling).

Alternatively, return the roof slope of the rear elevation to its condition prior to the installation of the new dormer window as shown on drawing no. 391.02 (Existing Elevations) submitted as part of application 22/01628/HOUSE (see Appendix 1). This requires the use of materials to match the roof as existing (noting that the roof has been subject to retiling) and the flat roof dormer

window which has been removed may be reinstated in materials to match those on the original dwelling, to the previous installed proportions.

E. Remove from the land any resultant waste materials.

- The periods for compliance with the requirements are:
 - A. 6 months
 - B. 6 months
 - C. 6 months
 - D. 6 months
 - E. 7 months
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the 1990 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 1990 Act.
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Appeal B Ref: APP/B3030/W/22/3312546

Two Acres, Oxton Hill, Southwell, Nottinghamshire NG25 0RB

- The appeal is made under section 78 of the 1990 Act against a refusal to grant planning permission.
 - The appeal is made by Ms Vili Chung against the decision of Newark & Sherwood District Council.
 - The application Ref No: 22/01628/HOUSE, dated 16 August 2022, was refused by notice dated 18 October 2022.
 - The development proposed is rear extension, side extension and render to property, retention of rear flat roofed timber clad dormer and principle pitched roof timber clad dormer.
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Decisions

Appeal A

1. Appeal A 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 for the development already carried out, namely the erection of a gabled dormer to the roof slope on the principal elevation at the front of the property, the erection of a single-storey extension at the eastern side of the property; a dormer window on the rear elevation and the construction of a rear extension at Two Acres, Oxton Hill, Nottinghamshire, Southwell NG25 0RB as shown on the plan and photographs attached to the notice and subject to the following conditions:
 - 1) Within 6 months of the date of this decision the timber cladding on the gabled dormer at the front and the dormer window on the rear elevation shall be replaced with tile hanging to match the colour of the pantiles on the existing roof.
 - 2) Within 6 months of the date of this decision the render as specified on drawing number 391.06A submitted with the planning application Ref No: 22/01628/HOUSE shall be applied to the walls of the eastern side extension and rear extension.

Appeal B

2. The appeal is allowed and planning permission is granted for the rear extension, side extension and render to property, retention of rear flat roofed dormer and principle pitched roof dormer at Two Acres, Oxton Hill, Southwell NG25 0RB in accordance with the terms of the application, Ref 22/01628/HOUSE, dated 16 August 2022, and the plans submitted with it, subject to the following conditions:

- 1) Within 6 months of the date of this decision the timber cladding on the pitched roof dormer at the front and the flat roofed dormer on the rear elevation shall be replaced with tile hanging to match the colour of the pantiles on the existing roof.
- 2) Within 6 months of the date of this decision render shall be applied to the walls of the property and the rear and side extensions in accordance with the specification on plan, ref No 391.06A, submitted with this planning application.

Procedural Matters

3. As set out above there are two appeals on this site one relating to an enforcement notice (the notice) and the other a refusal of a planning application (the application). They relate to the same site and largely the same operational development. To avoid duplication, I have dealt with them together, except where otherwise indicated. Furthermore, it is apparent that the walls and roofs of the rear and side extensions have been constructed and the dormer windows are fully constructed. The render has not been applied to the extensions or the property. The application is therefore part retrospective and part proposed and I have dealt with it on this basis.
4. The description of the development for the application (Appeal B) cites timber clad dormers but I have found that the materials used to clad the dormers are unacceptable. As such, within the formal decision above I have deleted the references to timber cladding.
5. The Landscape Character Assessment Supplementary Planning Document (the LCA) is cited within the evidence before me, but I have not been provided with a copy of that document. As such, it has little weight in the determination of these appeals.

The ground (a) appeal, deemed planning application (Appeal A) and Section 78 appeal (Appeal B)

Main Issues

6. Having regard to the Council's reasons for issuing the notice, set out at section 4 of the notice and the reasons for refusal of the application the main issue is the effect of the development on the character and appearance of the area and the host building.

Reasons

7. Core Policy 9 of the Newark and Sherwood Amended Core Strategy (CS) states, amongst other things, that the District Council will expect new development proposals to demonstrate a high standard of sustainable design that is of an appropriate form and scale to its context complementing the existing built and landscape environments. CS Core Policy 13 states, amongst other things, that the District Council will work with developers to secure new development which positively addresses the implications of relevant landscape Policy Zone(s) that is consistent with the landscape conservation and enhancement aims for the area.
8. Policy DM5 of the Allocations and Development Management DPD (DPD) states, amongst other things, that the rich local distinctiveness of the District's

landscape and character of built form should be reflected in the scale, form, mass, layout, design, materials and detailing. DPD Policy DM6 states, amongst other things, that planning permission will be granted for the alteration and extension of dwellings providing that the proposal respects the design, materials and detailing of the host dwelling and it respects the character of the surrounding area including its local distinctiveness.

9. There is no dispute that the appeal site lies within the regional character area (RCA) identified in the LCA as the Mid Nottinghamshire Farmlands and that it is located in the Halam Village Farmlands with Ancient Woodlands Policy Zone. The evidence before me states that the LCA indicates that this area is characterised by small nucleated villages, isolated farmsteads, quiet country lanes, undulating land forms, hedged fields and pockets of woodland. It also indicates that the LCA describes the local vernacular architecture as being red brick with pantiled roofs and that the actions for the built features of the environment include maintaining the use of vernacular materials, style and scale in any new developments.
10. Two Acres is a modern detached dwelling, with rooms in the steeply pitched roof, that is set back approximately 30 metres from the road. It is adjacent to a group of dwellings that appear to have originally comprised traditional agricultural buildings and a farmhouse. On the opposite side of Two Acres to those buildings is a large, detached dwelling. The area in the immediate vicinity is characterised by detached dwellings and farm/former farm buildings with fields and paddocks between them.
11. Single storey extensions to the side and rear of the dwelling and dormers to the front and rear roof slopes have been constructed. The walls to the pre-existing dwelling are brickwork but the walls to the extensions are currently blockwork. The application proposes to render all the external walls of the dwelling and the extensions in an off-white colour. The dormers have been clad with timber which is currently finished in a relatively bright brown/orange colour.
12. The front dormer has a gable and 2 windows on its main elevation. It is relatively large when compared to a traditional gabled dormer. However, the steep pitch of the main roof means that the main elevations incorporate a large expanse of roof and the dormer is set above the eaves and away from its edges. Furthermore, the dormer is centred above a relatively large 'picture' window on the ground floor. The positioning and proportions of that dormer is therefore balanced with that of the pre-existing dwelling, and it is in keeping with that dwelling's scale and form.
13. Nevertheless, currently when viewed from the public realm the dormer forms a dominant feature that draws the eye. I consider that this is due to the timber cladding which appears incongruous and highlights the alterations that have occurred due to its colour and the use of horizontal boarding. The appellant has stated that a planning condition could be imposed to alter the colour of the cladding or replace the cladding with tile hanging in a colour/finish to match the existing pantiles. I note that nearby single storey structures are clad in timber boarding. However, the use of this material to clad dormer windows is not prevalent in the immediate vicinity. If the cladding was replaced with tile hanging the dormer window would not draw the eye and would not be a dominant feature when viewed from the public realm. The replacement of the

cladding could be controlled by the imposition of a condition if I was minded to allow the appeal.

14. The dormer in the rear roof slope is flat roofed, appreciably larger than the pre-existing dormer and it is clad in timber the same as the front dormer. The requirements of the notice state that either the dormer is removed or the cladding is replaced with tiles to match that of the existing roof. Whilst this dormer is generally not visible from the public realm it can be seen from neighbouring properties. However, I consider that with the imposition of a planning condition in respect of the replacement of the cladding this dormer would not have a material impact on the character and appearance of the dwelling and the surrounding area.
15. The side extension is across the whole of the one pre-existing side elevation of the dwelling. It is dual pitched with a shallower pitch to that of the main roof. I note that the Householder Development Supplementary Planning Document (SPD) provides guidance in relation to methods to achieve a balanced visual relationship between an addition and the host dwelling. One of the suggested methods is to ensure that the addition has a roof style and pitch which is sympathetic to that of the host dwelling.¹
16. The differences in roof pitches are visible when the gables are viewed from within the grounds of Two Acres and the public realm. Nonetheless, in this case those differences are minimised visually due to the chimney that adjoins the side wall of the main part of the house. This is because the central position of that chimney screens the ridge line and parts of the front and rear roof pitches of the main roof. Moreover, when viewed from the front or rear the extension appears sub-ordinate to the main part of the dwelling due to its lower ridge line. Overall, I therefore consider that the style and pitch of the roof to the side extension is sympathetic to the host dwelling and complies with the guidance in the SPD.
17. The single storey rear extension extends across the rear of the dwelling and has a flat roof. The height of the flat roof is similar to that of the eaves level of the main dwelling. I note that it would be visible from neighbouring properties but given its height and overall size I do not consider that it appears overly dominant.
18. The walls of both extensions and the walls of the main house would be finished in an off-white colour render. Traditional buildings and the vernacular architecture in this RCA are characterised by brickwork for walling rather than render. Nevertheless, I noted that the adjacent former farmhouse has off-white render on its walls and that there are instances of render utilised on the walls of dwellings in the immediate surrounding area. Moreover, the dwelling is of a modern design and the steeply pitched roof and its pantiles are the dominant feature when viewed from the public realm. That roof would remain the dominant feature if the walls were rendered and that render would not appear incongruous in this location. Consequently, the visual prominence of Two Acres would remain relatively unaltered. Planning conditions would ensure that the walls of the property and the extensions would have matching materials.

¹ Paragraph 7.4(iv) – page 17

19. Taking into account all of the above, with the imposition of planning conditions, in my judgement the development would be an appropriate form and scale to its context and the local distinctiveness of the District's landscape and the character of its built form would be respected. As a result, the development would not harm the character and appearance of the host dwelling and the surrounding area. It follows that the development would comply with CS Core Policies 9 and 13 and DPD Policies DM5 and DM6.

Other Matter

20. A third party has raised concerns that the rear dormer reduces the privacy enjoyed at their property given the removal of a mature boundary hedge. Within the Delegated Report relating to the application, it is stated that there would be a separation distance of 40m or more from the nearest neighbouring dwellings and therefore the various extensions and alterations would not harm residential amenity through being overbearing or causing an unacceptable loss of light or loss of privacy. Based on my observations I have no reason to dispute that finding. While I understand that my decision will be disappointing for some local residents, the information before me does not lead me to conclude that this other matter would be an over-riding issue warranting dismissal of the appeal.

Conditions

21. I have considered the conditions put forward by the Council and those suggested by the appellant against the requirements of the Planning Practice Guidance (PPG) and the Framework. In the interests of conciseness and enforceability the wording of some of the conditions has been amended and the main parties have had the chance to comment on the imposed conditions.

Appeal A

22. The development affected by the notice has occurred and therefore a condition requiring that it be carried out in accordance with the specified drawings is not necessary. I have found that the materials used to clad the dormer windows are not acceptable, but the appellant has indicated that the materials could be replaced and controlled by the imposition of a condition. The replacement materials are necessary to ensure that the dormers would not harm the character and appearance of the area and the host dwelling. Therefore, condition 1) is necessary and it is drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the implementation of the outstanding matter because the development has already taken place. The purpose and effect of the condition is therefore to ensure that the timber cladding is replaced within a set time frame.
23. Similarly, the rear and side extensions have been constructed but the blockwork walls have not been rendered. I have found that if the walls were rendered those extensions would not harm the character and appearance of the area and host dwelling. Therefore, condition 2) is necessary and the purpose and effect of the condition is to ensure that the render is applied within a set time frame.

Appeal B

24. Most of the development that forms the application has been constructed as the only proposed part of the development is the application of render. For the same reasons as given above I consider that a condition requiring that the whole development be carried out in accordance with the specified drawings is therefore not necessary. Condition 2) ensures that the application of the render would be in accordance with the approved drawings. It is necessary in the interests of the character and appearance of the area and the host dwelling and the purpose and effect of the condition is to ensure that the render is applied within a set time frame.
25. As stated above, the replacement materials for the cladding to the dormers are necessary to ensure that the dormers would not harm the character and appearance of the area and the host dwelling. As such condition 1) is necessary and the purpose and effect of the condition is to ensure that the timber cladding is replaced within a set time frame.

Conclusions

Appeal A

26. For the reasons given above, I conclude that Appeal A succeeds on ground (a). I shall grant planning permission for the erection of a gabled dormer to the roof slope on the principal elevation at the front of the property, the erection of a single-storey extension at the eastern side of the property; a dormer window on the rear elevation and the construction of a rear extension as described in the notice.
27. The appeal on ground (f) does not therefore fall to be considered.

Appeal B

28. For the reasons given above I conclude that the appeal should be allowed.

D Boffin

INSPECTOR