



Appeal Decisions

Site visit made on 23 May 2023

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2023

Appeal A Ref: APP/A4710/C/22/3305000

Appeal B Ref: APP/A4710/C/22/3305001

4 Gladstone Street, Holywell Green, Halifax HX4 9EX

- 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 Ash Taylor (Appeal A) and Mrs Emma Taylor (Appeal B) against an enforcement notice issued by Calderdale Metropolitan Borough Council.
 - The enforcement notice was issued on 20 July 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission, the construction of a dormer extension to the front elevation.
 - The requirements of the notice are: Remove the unauthorised front dormer extension (As shown in Appendix 2) and restore the roof to its original condition before the breach took place.
 - The period for compliance with the requirements is 6 months.
 - The appeals are proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since the appeals have been brought on ground (a) applications for planning permission are deemed to have been made under section 177(5) of the Act as amended.
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Decisions

Appeal A

1. 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 1990 Act as amended.

Appeal B

2. 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 1990 Act as amended.

Preliminary Matter

3. I have dealt with another appeal on this site: APP/A4710/D/22/3302057. That appeal is the subject of a separate decision.

Appeal A and Appeal B on ground (a), deemed planning applications

Main Issue

4. The main issue in these appeals is the effect of the development on the character and appearance of the host property and Stainland Conservation Area.

Reasons

5. The appeal property is a modest back-to-back property constructed in stone with a slate roof. It forms part of a terrace of similarly designed dwellings, set back from the main road, separated by narrow rear access lanes and fronting onto allotment gardens. The terrace has a visually distinct appearance derived from the intimate layout of the properties, their simple form and the consistent use of materials. The property is situated within Stainland Conservation Area (CA).
6. From my own observations and the evidence before me, I consider the significance of the CA as a heritage asset is largely derived from the vernacular style of local stone buildings, their simple form and traditional arrangement which responds to the topography of the area and transport routes.
7. I have had regard to the appellants' 'Design Justification', submitted as part of these appeals, including the National Design Guide, 2019, as amended. Well-designed new development is clearly influenced by an appreciation and understanding of vernacular, including existing building form, roofscapes, height, scale, massing, and relationship between buildings, amongst other things.
8. In this case the buildings within the CA, including neighbouring terraces, have developed over time and reflect different periods of growth and change. Consequently, there are variations in character and design which reflect those periods and the individual design of the terraced properties, including the heights of their ridgelines and roofscapes are not uniform. However, the simple roof form/profile of the host terrace is a principal element of its traditional vernacular, and it makes a positive contribution to the character and appearance of the CA. The absence of views of the property or terrace from Stainland Road does not diminish that contribution.
9. The dormer window that has been constructed is a substantial structure. I appreciate that it has been designed and constructed to sit within the original roof slope, such that the property's eaves, ridge and distinctive chimney stacks remain intact. However, its scale is such that it encompasses most of the roof plane of the building between the chimney stacks and dominates the property to the extent that the original roof slope is barely discernible. Furthermore, its box form and bulk has resulted in a prominent and discordant feature on this traditional vernacular terrace.
10. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 indicates that in determining planning applications in conservation areas special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area. Consistent with Section 72(1), Policy BE18 of the Replacement Calderdale Unitary Development Plan (RCUDP) requires the character or appearance of the Conservation Areas, defined on the Proposals Map, to be preserved or enhanced and states that proposals involving the alterations or extension of a building within the CA will only be permitted where, amongst other criteria, the form, design, scale, and materials respect the characteristics of the buildings in the area, the townscape and landscape setting. In addition, Policy BE1 of the RCUDP requires, amongst other things, development proposals to respect or enhance the established character and appearance of existing buildings.

11. For the reasons set out above, the dormer by reason of its size, scale and form would fail to respect the characteristics of the host property and townscape setting and would fail to preserve or enhance the character and appearance of the CA.
12. I also appreciate that the dormer extension has enabled improvements to be made to the accommodation provided and building fabric of this private dwelling, which is supported by Policies H2 and H4 of the RCUDP. However, there would be conflict with Policy H2 of the RCUDP as the dormer would have an unacceptable effect on the architectural quality of the housing area and the building's design.
13. I conclude that the dormer does not preserve or enhance the character and appearance of Stainland Conservation Area and has a harmful effect on the character and appearance of the host property. It causes less than substantial harm to the significance of the CA as a heritage asset. This harm is not outweighed by any public benefit, including the improvements made to the accommodation and building fabric of private housing stock. The development is therefore contrary to policies in the National Planning Policy Framework which seek to conserve and enhance the historic environment. The development conflicts with the development plan as a whole, and in particular the design and heritage aims of Policies BE1 and BE18 of the RCUDP. There would also be some conflict with Policy H2 of the RCUDP which seeks to ensure that the quality of the Primary Housing Area is not harmed.

Other Matters

14. I have had regard to other extensions, including dormer windows that have been drawn to my attention by the appellants, and which I observed on my site visit within the CA. I do not know the exact planning circumstances of all those other extensions and dormers, and in some cases I accept that they have a harmful effect on the character and appearance of the CA. However, the existence of other harmful dormer extensions on different properties would not justify the unauthorised development in this case and are not a precedent that should be repeated. Moreover, although alterations have taken place to other properties within the CA, those other dormer extensions are not common, and the traditional vernacular style of the townscape and significance of the heritage asset prevails and should be preserved.
15. I have also had regard to development approved by the Council for dormer additions to the neighbouring property No 6 Gladstone Street. However, those dormers have not been constructed and the permission for them has expired. I therefore give this consideration little weight.
16. I recognise that in some instances alterations to the roof of a property may be acceptable depending on the architectural features and character of the original building. I have had regard to the examples given, including Holywell House and Bradley Hall. However, the dormer window that has been constructed in this appeal case does not respond to the original scale, form and design details of the host property and it has a harmful effect on its character and appearance.
17. Concern has been expressed about Council Officers' lack of design expertise. However, this is not a relevant consideration for me in this appeal and I have determined the appeal on its planning merits.

18. The development is supported by a considerable number of residents, including a local Councillor. Those letters of support do not however outweigh the harm that I have identified to the character and appearance of the CA.
19. Although an appeal has not been brought on ground (f), in their final comments the appellants assert that the steps required by the notice to remedy the breach of planning control are excessive and lesser steps would be sufficient. It is contended that their amended scheme to create two dormers, which is the subject of a concurrent appeal¹, would represent appropriate lesser steps. However, it will be seen by my decision on that concurrent appeal, that I have also found the scheme for two dormer windows to be unacceptable and the appeal has been dismissed. The breach can only be remedied by the removal of the unauthorised dormer and there are no lesser steps that would achieve the statutory purpose behind the notice.

Human Rights

20. I have taken into consideration the Human Rights Act, 1998 which enshrines in UK law the most fundamental rights and freedoms contained in the European Convention on Human Rights. I recognise that dismissal of the appeal would interfere with the appellants' rights under Article 1 of the First Protocol. However, given the harm identified in the notice, the action is in accordance with the law and pursues legitimate aims of protecting the environment and is necessary and proportionate to the situation.
21. I have also taken into consideration the appellants' rights under Article 6. The Secretary of State determined, in consultation with the appellants, that written representations would be a fair and appropriate procedure for the determination of this appeal. The appellants have had the opportunity to provide evidence in support of their appeal, which includes a deemed planning application, and to comment on submissions made by the local planning authority and third parties.

Conclusion

22. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the notice and refuse to grant planning permission on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

Elizabeth Pleasant

INSPECTOR

¹ APP/A4710/D/22/3302057