



Appeal Decision

Site Visit made on 16 October 2023

by J Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2023

Appeal Ref: APP/E2340/C/23/3318770

3 Woodside Terrace, Nelson BB9 7TB

- 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 Raja Raheel Munawwar against an enforcement notice issued by Pendle Borough Council.
- The enforcement notice was issued on 27 February 2023.
- The breach of planning control as alleged in the notice is, without planning permission, the unauthorised removal of the chimney stack on the Land.
- The requirements of the notice are:
 1. Reinstate the chimney stack and restore to its former condition.
 2. Make good any damage caused to the building as a result of the compliance with (i).
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (b) 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 of Decision: The appeal is dismissed, and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Procedural Matters

1. The appeal was initially made on ground (b) only. The appellant subsequently sought to also appeal on ground (a) whilst withdrawing the appeal on ground (b). The appeal therefore proceeds solely on ground (a).

The appeal on ground (a)

Main Issue

2. The main issue is whether the development preserves or enhances the character or appearance of the Whitefield Conservation Area (the CA).

Reasons

3. The appeal site lies within the designated heritage asset of the CA. The significance of the CA is largely derived from its Victorian streetscape which is characterised by a particular uniformity in the appearance of the terraced houses. Properties exhibit a high degree of consistency in the use of stone and slate roofs whilst the dual-pitched roofs, repetitive pattern of decorative chimneys and sloping gradients give the area a distinctive and unique character.

4. The appeal property is a mid-terraced property located on Woodside Terrace. Woodside Terrace displays many of the characteristics which define the significance of the heritage asset. Individually, the appeal property is constructed from stone, with a slate roof and, previously contained a chimney stack. The chimney stack was constructed from original materials, of a similar size, design and scale as neighbouring chimneys and with the regular spacing which is prevalent in the immediate street scene. As such, the property makes a positive contribution to the character and appearance of the CA.
5. The development subject of the notice is the removal of the chimney from the property. As a result of its removal, the contribution the property makes to the uniformity and consistency of the surrounding townscape has been substantially diminished. The omission of the chimney is readily apparent from Woodside Terrace, Dalkieth Road and in wider views from the surrounding area, including from Howard Street. Indeed, the omission is more readily apparent given the replacement slate and ridge tiles sit slightly above the existing ridgeline of the terrace.
6. I conclude, therefore that the development fails to preserve or enhance the character or appearance of the CA, in conflict with Policy ENV2 of the Local Plan for Pendle Core Strategy 2011-2023 (adopted 2015) (the LP) which states that proposals should contribute to the sense of place and make a positive contribution to the historic environment and local identity and character. There is also conflict with Paragraph 199 of the National Planning Policy Framework (the Framework) which sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
7. Paragraph 202 of the Framework goes on to state that, where a development will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the development. In this instance, there no apparent public benefits put forward to outweigh the harm to the heritage asset.

Conclusion

8. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

9. 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.

J Whitfield

INSPECTOR