



Appeal Decisions

Site visit made on 24 October 2023

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2024

Appeal A Ref: APP/Y3940/C/23/3316884

63 Pickwick Road, Corsham, Wiltshire SN13 9BS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Tim Stephenson against an enforcement notice issued by Wiltshire Council.
- The notice, numbered ENF/2022/00569, was issued on 1 February 2023.
- The breach of planning control as alleged in the notice is: Without planning permission, operational development comprising the erection of rendered cladding on the four exterior walls of the dwelling house within the Land. The dwelling house within the Land is annotated with a blue circle on the attached plan entitled "Notice Plan"¹.
- The requirements of the notice are to:
 - Remove in full the rendered cladding from the four exterior walls of the dwelling house within the Land and restore the four exterior walls to their former condition before the rendered cladding was erected.
 - The attached documents² entitled 'Notice Photographs 1', 'Notice Photographs 2' and 'Notice Photographs 3' show the rendered cladding of the dwelling house within the Land in three chronological stages of erection.
- The period for compliance with the requirements is six months from the date the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) and (g) 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 Decision: The appeal is dismissed, planning permission is refused and the enforcement notice is corrected and upheld.

Appeal B Ref: APP/Y3940/W/23/3314583

63 Pickwick Road, Wiltshire, Corsham SN13 9BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Tim Stephenson against the decision of Wiltshire Council.
- The application Ref PL/2022/07365, dated 20 September 2022, was refused by notice dated 28 November 2022.
- The development proposed is: the installation of cladding to the front elevation of the property, finished in render.

Summary Decision: The appeal is dismissed.

Applications for Costs

1. An application for costs was made by Wiltshire Council against Mr Stephenson. An application for costs has also been made by Mr Stephenson against Wiltshire Council. These applications are the subject of separate decisions.

¹ Reference to a plan here is to a plan attached the enforcement notices to which Appeal A relates.

² These documents are those attached to the enforcement notice.

Ground (b) – Appeal A

2. The appeal on ground (b) is that the matters alleged in the enforcement notice, which appears to the Council to constitute the breach of planning control, have not occurred.
3. The appeal property is a detached two storey dwelling that has been enlarged to the rear by a two-storey extension, that is the subject of planning permission reference 09/00443/FUL.
4. The allegation is of 'the erection of rendered cladding on the four exterior walls of the dwelling house'. In making his case, that the breach of planning control alleged has not occurred, the appellant says that 'the rear elevation of the dwelling is now effectively an internal wall'. In doing so, he appears to suggest that the rendered cladding has not been erected on the rear elevation of the original dwellinghouse.
5. The Council appear to accept this, although they say that the two-storey extension does not extend across the entire width of the rear elevation of the original dwellinghouse. On site, I observed an external section of the original rear elevation, which the Council says measures some 300mm in width. This is adjacent to the two-storey rear extension and appears to have the rendered cladding applied to it. In his final comments, the appellant appears to acknowledge this, but asks for clarity within the notice.
6. In this regard, the allegation relates to a dwellinghouse on the land and the extension forms part of the dwellinghouse. Indeed, the plan attached to the notice shows the approximate footprint of the building, as extended, and the blue dot identifying the dwellinghouse referred to in the allegation is on this extended footprint. Save for the appellant's reference to the rear elevation of the original dwellinghouse, part of which he now accepts still forms an external element of the building, he does not suggest that rendered cladding has not been applied to any other external wall of the dwellinghouse, as extended. I can, however, see that reference to 'the four exterior **walls** of the dwellinghouse' (my emphasis) might be misleading, having regard to the step in the side elevation and the slight set in of the rear extension on one side.
7. In view of the above, I can agree with the Council that the notice might be more precise if it were to refer in parts 3 and 5 to the four exterior elevations of the dwellinghouse, rather than the four exterior walls. I am satisfied that injustice would not be caused by such a correction, particularly having regard to the appellant's final comments.
8. For the reasons given above, despite the need to correct the notice, I do not regard the ground (b) appeal as succeeding in this case. This is because I have found the allegation to be correct insofar as it relates to the exterior of the dwellinghouse.

Ground (c) – Appeal A

9. To succeed on ground (c), the appellant must demonstrate that, on the balance of probability, the matters alleged in the notice, as corrected as I intend, do not constitute a breach of planning control. The burden of proof is on the appellant.

10. Whilst I note the case made by the Council on the ground (c) appeal, the appellant does not suggest that the rendered cladding is not development falling within the definition at section 55 of The Town and Country Planning Act 1990 as amended (the 1990 Act). Neither does he suggest that it is development that has the benefit of planning permission granted by The Town and Country Planning (General Permitted Development) (England) Order 2015.
11. In his ground (c) case, the appellant has only referred to the rear extension and suggests that this accords with the scheme of development approved by reason of the 09/00443/FUL planning permission. In support of his case, he has provided a copy of a letter from the Council, dated 29 September 2009. In this the officer refers to the 09/00443/FUL planning permission and says that the 'Calne Sand/white cement mix' would be an acceptable render for the extension.
12. I can see that there is a condition of the 09/00443/FUL planning permission which requires the submission of a sample panel of render to be used on the external walls. I cannot, however, regard the letter referred to by the appellant as a formal discharge of the condition, not least because it does not refer to the relevant condition. Nevertheless, I acknowledge that this letter relates to the condition and the planning permission granted.
13. Notwithstanding this, part 1 of the notice refers to section 171A(1)(a) of the 1990 Act, which relates to the carrying out of development without the required planning permission, rather than the failure to comply with any conditions subject to which planning permission has been granted³. Furthermore, the allegation is of operational development comprising 'rendered cladding', not just render as the letter refers. Indeed, the evidence before me demonstrates that cladding has been applied to the dwellinghouse and this has been rendered.
14. The letter provided by the appellant is material to the ground (a) appeal. However, even if it were regarded as a formal discharge of the condition, it does not demonstrate that the rendered cladding, as alleged in the notice, is permitted by reason of the discharge of a condition imposed on the 09/00443/FUL planning permission, which relates to render only.
15. For the above reasons, it has not been demonstrated that the development alleged in the notice does not constitute a breach of planning control. The appeal on ground (c) should, therefore, fail.

The ground (a) appeal, the deemed application for planning permission and the appeal against the refusal of planning permission – Appeals A & B

Procedural Matter

16. Since the appeal was made, the National Planning Policy Framework has been published in December 2023 (the Framework). This replaces the former version, which has been referred to in evidence by the parties. Whilst paragraph numbering might have changed, there have been no changes to the guidance referred to by the parties. Accordingly, it was not necessary to seek the parties' views on the replacement guidance document.

³ Section 171A(1)(b) of the 1990 Act.

Main Issues

17. Appeal A has been made on ground (a), which includes a deemed planning application for the development that is the subject of the enforcement notice (once corrected as intended for the reasons set out earlier in this decision). The application subject of Appeal B sought permission for the 'installation of cladding to the front elevation of the property, finished in render'.
18. There is a difference between the development subject of Appeal A and that subject of Appeal B. Whilst both refer to rendered cladding, Appeal B relates to the cladding and render on the front elevation of the appeal property only, whereas Appeal A relates to the cladding on the four external elevations of the building.
19. The reasons for the issue of the enforcement notice do not explain the harm caused by the development. They just refer to the local and national policies and guidance that the development is said to be contrary to. These policies are, however, repeated in the reason for refusal of the planning application subject of Appeal B. On this basis, and having regard to the evidence of the parties, the main issues that I will consider for these appeals are broadly the same. I am satisfied that the ground (a) appeal and Appeal B can be considered together, but I will distinguish between the two, where appropriate.
20. The main issues are the effect of the development on the character and appearance of the building; and whether or not the development preserves or enhances the character or appearance of the Corsham Conservation Area (CCA).

Reasons

21. The appeal site is within the built up part of the CCA. It fronts onto a main thoroughfare through the town. I have been provided with the Corsham Town Council Design Guide 2016-2026, dated November 2019, which says that the Pickwick area, including Pickwick Road, 'has developed in a linear fashion along the busy main A4'. It describes more formal Georgian dwellings in Bath stone, which are the prevailing form of development in the part of Pickwick Road within which the appeal site sits. There are subtle differences in the design of the detached and semi-detached properties in the area. Nevertheless, the significance of this part of the CCA comes, in part, from a collection of properties of a similar age where there is repetition in the scale, form, materials, and design features. Indeed, these properties dominate the built form along this part of Pickwick Road, with only a few exceptions to this. This part of the CCA clearly contributes to a sense of local character and identity.
22. I acknowledge that the appeal property may not have been entirely constructed of natural stone, referred to by the conservation officer as 'ashlar', as others in the area are. The photographs of the property prior to the development taking place show a large portion of the front elevation having been rendered. What was beneath the render on the front elevation is unclear. However, the render did not extend to the window and door surrounds, and to the quoins. These appear to have been constructed of natural sandstone. This includes the same features on the front porch. Although not so prominent, this natural sandstone detail is repeated in other properties within this part of the CCA. The gable ends of the building also featured a prominent parapet detail along the edge of the roof slopes, which also appears to have a sandstone

finish coping stone. Again, this detail is prevalent in other properties around the site.

23. If the material I can see in the photographs of the property before the works took place is not natural sandstone, the appearance, colour and texture of this material is wholly sympathetic to the natural sandstone used in properties close to the site.
24. Notwithstanding the above, I acknowledge that one of the side elevations was finished in red brick and that there was a render finish on the front and the other side elevation. The render sat forward of the window and door surrounds and the quoins, which is not a feature I saw repeated elsewhere. Nevertheless, having regard to the features I have identified above, together with the central porch, I am satisfied that the appeal property made a positive contribution to the significance of the CCA prior to the works subject of these appeals taking place. That the render was cracked in places and in need of repair does not alter these findings.
25. The evidence suggests that cladding has been added to all elevations of the building, materially adding to the depth of each elevation. The cladding has been added over the window and door surrounds and the quoins. I can see that care has been taken to replicate most of the surrounds and the quoins. These features project from the surface, rather than being recessed, as was the existing situation. I also note that, in an attempt to highlight these features, there is a contrast in the colour of the render.
26. Whilst the projecting surrounds and quoins replicate those on the adjoining property at 65 Pickwick Road, such prominent features are not prevalent on other buildings in this part of the CCA. On other properties along Pickwick Road these features are more subtle. Furthermore, the creation of these features with cladding and render, rather than natural stone, together with the contrasting colour of this render, adds to the artificial appearance of the front and side elevations of the original (front) part of the appeal property.
27. In addition to this, the cladding has not integrated well with the parapet detail on the front and rear roof slope of the original dwellinghouse. The added depth resulting from the cladding has meant that this feature has been lost to a degree. Its appearance is also undermined by the addition of a prominent white finishing strip at the top of the gable ends of the side elevations, which appears to cover or cap the added depth of the cladding and render. The works have also resulted in the loss of the slightly ornate detail that previously existed on the eaves of the front porch. This has been replaced with a flat, grey coloured strip that has also not integrated well with the cladding added to the porch.
28. The cladding and render on the rear elevation and the rear extension of the appeal property is far less prominent than that added to the front and side elevations of the original part of the dwellinghouse. This has been applied in a more simple manner and respects the features of this modern addition to the building.
29. All of the above considered, the cladding and render that has been added to the front porch, as well as to the front and side elevations of the original dwellinghouse (excluding the rear extension) has harmed the character and appearance of the property. The appeal property appears at odds with the

prevailing built form in the area, causing harm to the significance of this part of the CCA. Accordingly, the development neither preserves nor enhances the character and appearance of the CCA.

30. For the above reasons, the development subject of these appeals conflicts with Policy HE1 of the Corsham Neighbourhood Plan 2016 – 2026 dated November 2019, as well as Policies 57 and 58 of the Wiltshire Core Strategy Adopted January 2015. I find conflict with these Policies because the development is not of a high quality design that respects the character and historic built fabric of existing and surrounding buildings; it fails to respond positively to the existing townscape and to effectively integrate into its setting; it fails to enhance local distinctiveness by responding to the value of the historic environment; and it neither conserves nor enhances distinctive elements of Wiltshire's historic environment which contribute to a sense of local character and identity.
31. I have identified harm to the significance of the CCA heritage asset. The Council have suggested the harm is substantial, within the meaning of chapter 16 of the Framework on Conserving and enhancing the historic environment. I cannot, however, agree with this. I find the harm to be less than substantial in this case. Nevertheless, paragraph 206 of the Framework advises that any harm to the significance of a designated heritage asset should require clear and convincing justification. Where there is less than substantial harm, paragraph 208 advises that the harm should be weighed against the public benefits of the proposal.
32. It is clear that the cladding has been added to the property in order to improve the overall energy efficiency of the dwellinghouse. Whilst this is of personal benefit to the appellant, it also makes a small contribution to the Government's aims for a low carbon future, as set out in chapter 14 of the Framework on Meeting the challenge of climate change, flooding and coastal change. Whilst this must be seen as a public benefit of the development, the Framework (paragraph 205) makes it clear that great weight should be given to the conservation of a heritage asset. As the development fails to conserve the heritage asset in this case, the public benefit does not outweigh the harm caused.

Other Matters

33. At this point of my decision I must consider all benefits of the development, which include the private benefit that clearly must arise to the appellant and his family from the likely improvements to the energy efficiency of his home. However, both the public and private benefits of this development are small in their nature, and are not sufficient to outweigh the harm to the appeal property and the CCA, as well as conflict with the development plan when read as a whole.
34. I have considered whether conditions would overcome the harm caused in this case, including those that might incorporate the suggested alterations to the development made by the appellant under his ground (f) appeal on Appeal A. These include a change to the colour or the texture of the render. Whilst a change to the colour might result in the artificial door and window surrounds and quoins details being less prominent, what would remain is a building that is still entirely rendered. Such extensive rendering is not a feature of other properties along this part of Pickwick Road. Furthermore, these alterations

would not return the natural stone details I've referred to on the original part of the dwellinghouse, which are features that are sympathetic to the surrounding built development. Accordingly, I am not persuaded that a change of colour or texture would mean that the building would no longer look at odds with the prevailing character of built development within the area.

35. Furthermore, these proposed alterations to the development would not improve the poor appearance of the works undertaken to integrate the cladding and render at the eaves of the porch and at the top of the gable ends.
36. On a separate matter, I have concluded that the cladding and render of the rear two storey extension is far less prominent than that on the original part of the building, and that it is more in keeping with the character and design of this recent addition. In view of this, I am mindful of the provisions of section 177(1)(a) of the 1990 Act which, in the case of Appeal A, allows me to grant planning permission in respect of the whole **or any part** of the matters stated in the enforcement notice.
37. The cladding and rendering of the rear extension might well be regarded as part of the matters stated in the notice. I cannot, however, conclude that permission ought to be granted for it. I say this because the notice requires the removal of the cladding and render and the return of the elevations to their former condition, which for the original part of the dwellinghouse is shown on the photographs attached to the notice as including a part rendered front and side elevation and red brick side elevation facing No 65. Accordingly, if the requirements of the notice were to only apply to the external elevations of the original part of the dwellinghouse, I cannot be satisfied that the current external finish of the extension would be in keeping with what would remain following compliance with the enforcement notice.
38. I am unable to resolve this within the confines of this decision. I am, however, confident that this is a matter that can be resolved between the parties, particularly having regard to the development permitted by the 09/00443/FUL planning permission.

Planning Balance and Conclusion

39. All things considered, I have not been able to identify material considerations of sufficient weight to indicate that my determination of the ground (a) appeal, the deemed planning application and Appeal B should be made otherwise than in accordance with the development plan. Accordingly, I conclude that Appeal B should not be allowed and, on Appeal A, that planning permission ought not to be granted and the ground (a) appeal should fail.

Ground (f) – Appeal A

40. For the appeal to succeed on this ground, I must be satisfied that the steps required to comply with the notice exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused by the breach. Having regard to the requirements of the notice, its purpose must be to remedy the breach of planning control that has occurred.
41. Elements of the appellant's ground (f) appeal include lesser steps that would result in the retention of the cladding and render, but with a different coloured finish or texture. As this would not result in the removal of the development,

these lesser steps would not remedy the breach. I have, however, considered these proposed alterations to the cladding and render within the ground (a) appeal and Appeal B, but have concluded that they would not mitigate the harm caused.

42. As I have noted above, the notice requires that the external walls be returned to their former condition following the removal of the render and cladding. I find such a requirement to be reasonable in this case, particularly as the appellant is clearly aware of what was there before he undertook the development. Indeed, the photographs attached to the notice assist in this regard. That the render may not have been on the property when it was first built does not change this conclusion. The reinstatement of any render would, of course, result in new render being applied. The appellant has not demonstrated that the appearance of the building following compliance with the notice would not compare to its appearance prior to the breach of planning control taking place. I have found that the building previously made a contribution to the significance of the CCA, and I have no reason to conclude that it would not do the same, once the notice has been complied with.
43. No alternative or lesser steps have been suggested to achieve the purpose of remedying the breach in this case and, having regard to both the nature of the breach and requirements of the notice, no other steps that would achieve this purpose are obvious to me. On this basis I conclude that the steps required in the notice, once corrected, are necessary and proportionate. For these reasons, the appeal under ground (f) should fail.

Ground (g) – Appeal A

44. An appeal on ground (g) is that the period specified in the notice falls short of what should reasonably be allowed. The notice specifies a period of 6 months from the date it takes effect.
45. In support of his case under ground (g), the appellant has pointed to the 9 month period it took to arrange for the specialist contractor to undertake the works subject of the notice. He has, therefore, requested a period of 12 months, which reflects the total time taken to engage the contractor and complete the works.
46. I can agree with the Council, that the removal of the render and cladding would not require the same attention to detail as the works to erect it. For example, I can appreciate that the works to replicate some of the quoin features took some time and would have necessitated the 3 months of work. However, such works would not be necessary when undoing what has been done. The period of 6 months would more than allow for these works to be carried out.
47. Whilst the appellant may wish to use a specialist to carry out the works, I am not persuaded that a professional builder with sufficient qualifications and/or experience could not do the job. I have no reason to conclude that it would not be difficult to engage the services of a suitable professional, such that a period of longer than 6 months is needed in total.
48. Whilst the appellant suggests that the Council might be inflexible on allowing more time if needed, this alone is not reason enough for me to allow more time to comply with the notice in this case. Nevertheless, I would encourage the parties to actively communicate so that any issues can be identified early on.

49. All of the above considered, I have no reason to conclude that the period specified in the notice falls short of what should reasonably be allowed. Accordingly, the ground (g) appeal should fail.

Overall Conclusions

50. For the reasons given above, I conclude that Appeal A should be dismissed. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

51. Also, for the reasons given above, I conclude that Appeal B should be dismissed.

Formal Decision – Appeal A

52. It is directed that the enforcement notice is corrected by:

- The deletion of the word 'walls' from part 3 and its substitution with the word 'elevations'; and
- The deletion of the word 'walls' where it appears twice in part 5 and in both cases its substitution with the word 'elevations'.

53. Subject to the corrections, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

Formal Decision – Appeal B

54. The appeal is dismissed.

J Moss

INSPECTOR