



Appeal Decision

Site Visit made on 17 June 2024

by J Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th July 2024

Appeal Ref: APP/W0734/C/24/3340312

29 Cambridge Road, Middlesbrough TS5 5NG

- 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 Aziz Ur-Rehman against an enforcement notice issued by Middlesbrough Borough Council (the LPA).
- The enforcement notice was issued on 12 February 2024.
- The breach of planning control as alleged in the notice is, without planning permission, the boundary wall has been partly demolished, brick pillar removed and concrete driveway laid to the front.
- The requirements of the notice are:
 1. Reinstate the brick wall and pillar using materials that match the existing.
 2. Remove the hardstanding/concrete and return the land to the condition it was prior to the breach taking place.
- The period for compliance with the requirements is 12 weeks.
- 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. 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 with a correction and variation as set out below in the Formal Decision.

The Notice

1. Section 5 of the notice refers to, "the periods for compliance with the steps set out in paragraph 5." This is a clear misdescription, as it ought to refer to the steps set out section 4, since this part of the notice sets out the requirements. I can correct the notice accordingly without injustice to the appellant or the LPA.

The appeal on ground (a)

2. In an appeal on ground (a), the description of development is derived from the breach of planning control as stated in the notice. Planning permission can only be granted for the breach, in whole or in part.

Main Issues

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

Reasons

4. The Land lies within the CA, the significance of which is derived from its historical qualities as a suburb of Middlesbrough with planned streets of buildings with architectural consistency. The CA is generally characterised as a leafy suburb with spacious, tree lined streets framing Victorian, Edwardian and inter-war period housing.
5. Cambridge Road is characterised by inter-war semi-detached properties constructed in brick with distinctive architectural features. The properties are generally set back from the road in gardens defined by low brick walls with prominent gate piers and mature landscaping.
6. I saw from my site visit that, whilst there are instances where front gardens have been converted to driveways, the general character of low-level brick walls with prominent piers and mature landscaping has largely been retained. As such, the street makes a significant contribution to the character and appearance of the CA.
7. The development has resulted in the partial loss of the front boundary wall, the removal of a brick pillar and the replacement of the front garden with a concrete driveway. No vegetation has been retained within the front garden beyond the boundary hedge and tree. The gate pier has been removed in its entirety and the low-level wall has been almost entirely removed. As a consequence, the development has resulted in the loss of several key features of the property which contribute towards the significance of the CA.
8. Moreover, the replacement of the front garden with a concrete driveway appears as a stark and incongruous feature, at odds with the leafy separation between the house and highway which is prevalent within the CA.
9. I note that there are examples in the area of the driveways having been widened, walls reduced, and pillars removed. However, these examples only serve to demonstrate the harm such works have to the character and appearance of the CA. They appear at odds to the character and appearance of the CA, not typical of it. As such, they do not justify the development before me.
10. I conclude, therefore, that the development will not preserve or enhance the character or appearance of the Linthorpe Conservation Area. Consequently, it will conflict with Policies DC1(b) and CS5(h) of the Middlesbrough Local Development Framework Core Strategy 2008 which state that all development should take account of the visual appearance of the development and its relationship with the surrounding area, and the preservation and enhancement of the character or appearance of conservation areas.
11. There is also conflict with Paragraph 205 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.
12. Paragraph 208 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.

13. I note the appellant's family and personal circumstances have led to a demand for increased off-street parking to be available at the property and argues that providing off-street parking will provide a benefit to highway safety. However, there is no evidence that there are presently any highway safety issues deriving from on-street parking on Cambridge Road at present. As such, I afford the benefits of the development limited weight.
14. I find therefore that benefits associated with the development would not outweigh the great weight I afford to the harm to the significant of the designated heritage asset.

Other Matters

15. I was able to see from my site visit that a replacement wall and pillar have been erected. The appellant indicates that the previous pillar has been re-erected with the original cap and finial whilst the driveway has been treated with a new surface which replicates the appearance of black sets. However, those works do not form part of the matters subject of the enforcement notice. It is not therefore open to me to consider the planning merits of the subsequent works which have been carried out, since it is not open to me to grant planning permission for them under S177(1)(a) of the Act.

Conclusion

16. For the reasons given above, I conclude that the appeal on ground (a) should not succeed and the deemed application for planning permission should be refused.

Appeal on ground (g)

17. An appeal on ground (g) is made on the basis that the period specified for compliance in the notice falls short of what should reasonably be allowed.
18. The notice requires the brick wall and pillar to be reinstated using materials to match the existing and the concrete driveway to be removed, with the land then restored to its condition prior to the breach taking place within 12 weeks.
19. The appellant states that they are in poor health which means they are unable to carry out any of the works themselves and will need to rely on the services of an external contractor. The appellant thus says that the construction sector is facing challenges and therefore they will be unable to arrange for the work to be carried out within 12 weeks. A six-month period is therefore requested.
20. Whilst little evidence has been provided that the appellant has sought estimates of timescale from contractors, the LPA has not argued against the appellant's suggested timescale. It seems to me that a period of six months would be a more reasonable time period for the appellant to appoint contractors and for the work to be undertaken.
21. The appeal on ground (g) therefore succeeds.

Formal Decision

22. It is directed that the enforcement notice is corrected by: the deletion of the words "paragraph 5" from section 5 of the notice and its substitution with the words "section 4"; and, varied by the deletion of the 12 weeks and the substitution of 6 months as the time for compliance.

23. Subject to the correction and variation, the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under S177(5) of the Act as amended.

J Whitfield

INSPECTOR