



Appeal Decisions

Site visit made on 6 August 2024

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th August 2024

Appeal A Ref: APP/M1710/C/23/3334515

Land at Laburnam House, Crossways Road, Grayshott, Hindhead GU26 6HJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act). The appeal is made by Mr Kirk Oliver against an enforcement notice issued by East Hampshire District Council.
- The notice was issued on 9 November 2023.
- The breach of planning control as alleged in the notice is Within the last four years and without planning permission the removal of chimney stacks and the replacement of roof tiles within a Conservation Area.
- The requirements of the notice are: (a) Remove all existing brown machine-made tiles from the roof, and replace with red handmade clay tiles. (b) Reconstruct the demolished chimney stacks in the same positions as the demolished chimney stacks. i) The chimneys must match the height, design and position of the pre-existing chimneys as illustrated by the images attached as Appendix HG01 and aerial photo attached as Appendix HG02. ii) The chimney stacks must be rebuilt using handmade red bricks and a lime mortar mix of 3:1 coarse sand to Natural Hydraulic Lime (NHL) 3.5. iii) The chimney stacks must be reconstructed to the same form, as identified on Appendix HG01. iv) Lead flashing must be installed where the chimneys meet the roof.
- The period for compliance with the requirements is 9 months from the date the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), and (f) of the 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 Act (the DPA).

Appeal B Ref: APP/M1710/W/23/3331174

1 The Flat, Crossways Road, Grayshott, Hampshire GU26 6HJ

- The appeal is made under section 78 of the Act against a refusal to grant planning permission.
- The appeal is made by Mr Kirk Oliver against the decision of East Hampshire District Council.
- The application Ref is 54612/002.
- The development proposed is Removal of chimney stacks and the like for like replacement of roof tiles and associated work.

Summary of Decisions

1. Appeal A succeeds in part and permission for that part is granted, but otherwise the appeal fails, and the enforcement notice is upheld in the terms set out below in the Formal Decision. Appeal B is dismissed.

Preliminary Matter

2. The appellant claims that the development in Appeal B has been carried out, but the Council claims that the tiles used are not 'like for like' replacements. The simple replacement of roof tiles using genuine like for like materials would not constitute development requiring planning permission in this particular case, for the reasons set out below. The matters for consideration in Appeal B therefore relate only to the removal of chimney stacks.

Appeal A: Ground (c)

3. To succeed under this ground of appeal the appellant needs to demonstrate, on the balance of probabilities, that the removal of the chimney stacks and the replacement of the roof tiles do not constitute breaches of planning control.
4. Section 57 of the Act sets out that planning permission is required for the carrying out of development. Section 55 provides the relevant meaning of 'development', which includes the carrying out of building operations. Subsection (1a) of section 55 provides a non-exhaustive list of what 'building operations' includes, as follows: (a) demolition of buildings; (b) rebuilding; (c) structural alterations of or additions to buildings; and (d) other operations normally undertaken by a person carrying on business as a builder. In this context, section 336 of the Act explains that 'building' includes any structure or erection and any part of a building.
5. Alongside the above, section 55(2)(a)(ii) of the Act clarifies that the carrying out for the maintenance, improvement or other alteration of any building of works which do not materially affect the external appearance of the building shall not be taken as development requiring planning permission. With regard to the relevant caselaw, for the works to have materially affected the external appearance of the building, the change must be visible from a number of normal vantage points and material to the appearance of the building as a whole.
6. The removal of the chimneys has fundamentally changed the composition of the building, which is clear from short and long views within the Greysthott Conservation Area (CA), where the site is located. I saw that tall chimneys are a common feature of the CA, and their absence on the building is a notable change to its former external appearance. The removal of the chimneys has therefore had a material effect on the external appearance of the building, and those works comprised development requiring planning permission.
7. Sandtoft Humber Kensington tiles were used to re-roof the building because the former Warner Star tiles have been discontinued and reclaimed Warner Star tiles were unavailable. The new tiles are similar to the former tiles, but they lack an overall weathered appearance and have a consistent reddish/brown hue compared to the aged and varied darkened orange finish of the former tiles. It is clearly noticeable that new tiles have been applied to the roof, the overall effect of which is different to the more dated exterior of the rest of the building.
8. The new tiles are not therefore like for like replacements. They have brought about an obvious change to the external appearance of the building as a whole. This change can be seen from a range of ground level viewpoints across the CA. The prominent location of the building, amongst the historic surroundings of the CA, emphasises the materiality of the change in the external appearance of the building.
9. For the above reasons I find that the removal of the chimney stacks and the replacement of the roof tiles, taken separately or together, comprise development requiring planning permission. I have not been referred to, and I am not aware of, any planning permission the development may benefit from. It is therefore in breach of planning control.

10. The appeal under ground (c) must therefore fail.

Appeal A: Ground (a) and the DPA; and Appeal B

11. The main issue is the effect of the development on the character and appearance of the area, with particular regard to the CA.
12. The significance of the CA, so far as relevant to the appeal, relies to a large extent on the arrangement of Victorian and Edwardian buildings with common architectural features such as pitched roofs, gable ends, and prominent chimney stacks reminiscent of the Arts and Crafts movement.
13. I have been referred to a claimed prevalence of orange clay roof tiles within the CA. However, I saw many examples of darker clay and slate roof tiles within the CA, rather than orange clay roof tiles in particular. Although orange clay hanging tiles on upper floor walls are a feature of the CA, I do not consider that orange clay roof tiles make a notable contribution to its significance.
14. The building is an attractive historic feature of the CA, albeit with uncharacteristic modern first floor windows. Its roof form and appearance make important positive contributions to the significance of the CA because the building is reflective of the historic architectural characteristics outlined above. It is adjoined by a modern terraced building to the northwest with grey concrete pantiles.
15. The former brick chimneys were typical for a building of this age and the CA in general, and they both projected above the eaves of the roof. The southeastern chimney was wide and stout, whereas the northwestern chimney appeared taller and thinner, probably on account of the different number of fireplaces they served historically. This made them conspicuous bespoke features of the building and the CA alike. Their loss has caused harm to the character and appearance of the CA and has reduced the positive contribution that the building makes to the significance of the CA.
16. The replacement tiles are a close match to those which previously existed, similar to other roof tiles within the CA. In the context of other modern finishes to the building and neighbouring buildings, their finish is sympathetic to the roofscape of the area and the overall character and appearance of the building and the CA.
17. The removal of the chimney stacks fails to preserve or enhance the character or appearance of the CA. With regard to the National Planning Policy Framework, their removal has caused less than substantial harm to the significance of the CA. Where this is the case, that harm should be weighed against the public benefits of the development.
18. It is claimed that the chimneys were in a poor condition, allowed water ingress, and that their removal was in the interests of public safety and to improve the thermal efficiency of the building. There is very little to show this was the case, or that these issues could not have been addressed without removing the chimney stacks. I therefore assign limited weight to these claimed public benefits, which does not outweigh the great weight I assign to the harm their loss has caused.
19. The replacement tiles have changed the external appearance of the building, but that change has not caused any harm to the character or appearance of the

building or the CA. These works have therefore preserved the character and the appearance of the CA and do not harm the significance of the CA.

Conclusion on the appeal under Ground (a) and the DPA in Appeal A; and Appeal B

20. I have found that the removal of the chimney stacks has caused harm to the character and appearance of the building and the CA, which harms the significance of the CA. That harm is not outweighed by any public benefits and is contrary to Policies CP29 and CP30 of The East Hampshire District Local Plan: Joint Core Strategy (2014) and Policies HE2 and HE5 of the East Hampshire District Local Plan: Second Review (2006). These require, amongst other things, development to seek exemplary standards of design and architecture with a high quality appearance which respects the character, identity and context of the area, and to conserve the historic environment.
21. I have also found that the replacement roof tiles to the building preserve the character and appearance of the building and the CA and do not harm the significance of the CA. The replacement roof tiles therefore accord with the above mentioned policies and it is open to me to issue a split decision on the appeal under ground (a) and the DPA in Appeal A, whereby planning permission is granted for the replacement roof tiles only. As the replacement roof tiles are already in place and are appropriate to the building and the CA, no conditions are needed to make this part of the development acceptable.
22. The appeal under ground (a) therefore succeeds in part and I shall grant unconditional planning permission for the replacement roof tiles and refuse planning permission for the removal of the chimney stacks. Appeal B fails.

Appeal A: Ground (f)

23. To succeed under this ground of appeal the appellant needs to show that the steps required to be taken exceed what is necessary to remedy the breaches of planning control or, as the case may be, to remedy any injury to amenity which has been caused.
24. The notice seeks to restore the land to its condition before the breach took place, rather than remedy injury to amenity. I am not aware of any obvious alternatives or lesser steps which may achieve the purpose of the notice with less cost and disruption.
25. As I am allowing the appeal under ground (a) in part, planning permission will be granted for the roof tiles currently in place and the notice will cease to have effect so far as inconsistent with that permission¹. This means Step (a) will have no effect.
26. The appeal under ground (f) therefore fails.

Conclusions

27. For the reasons given above I conclude that Appeal A should succeed in part only, and I will grant planning permission for the replacement roof tiles, but otherwise I will uphold the notice and refuse to grant planning permission in respect of the removal of chimney stacks, and I shall dismiss Appeal B. The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of section 180 of the Act.

¹ Section 180 of the Act

Formal Decisions

Appeal A

28. Appeal A is allowed insofar as it relates to the replacement of roof tiles and planning permission is granted on the application deemed to have been made under section 177(5) of the Act for the replacement of roof tiles at Laburnum House, Crossways Road, Grayshott, Hindhead GU26 6HJ. Appeal A is dismissed and the enforcement notice is upheld insofar as it relates to the removal of chimney stacks and planning permission is refused in respect of the removal of chimney stacks at Laburnum House, Crossways Road, Grayshott, Hindhead GU26 6HJ on the application deemed to have been made under section 177(5) of the Act.

Appeal B

29. Appeal B is dismissed.

L Douglas

INSPECTOR