



Appeal Decision

Site visit made on 30 August 2024

by D Hartley BA (Hons), MTP, MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th September 2024

Appeal Ref: APP/H0738/C/24/3342330

Land at 2 Palm Grove, Stockton-on-Tees, TS19 7AX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr L Blackburn against an enforcement notice issued by Stockton-on-Tees Borough Council.
 - The notice was issued on 6 March 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised development and enlargement of the dwellinghouse on the land, consisting of the construction of a rear dormer roof extension (with flat roof).
 - The requirements of the notice are to (a) remove the unauthorised rear dormer extension and all of its constituent parts from the dwellinghouse on the Land; (b) reinstate the dwellinghouse on the Land to the condition it was prior to the breach of planning control took place, and (c) remove from the Land the resultant materials and debris associated with complying with steps 5(a) and 5(b) above.
 - The period for compliance with the requirements is 12 months.
 - 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.
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Decision

1. 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 as amended.

Preliminary Matters

2. The Government consulted on reforms to the National Planning Policy Framework 2023 (the Framework) on 30 July 2024 (Consultation Draft Framework). The consultation closes on 24 September 2024. I afford the Consultation Draft Framework limited weight in decision making terms as a material planning consideration. Considering the deemed planning application main issues below, there are no proposed reforms in the Consultation Draft Framework which have a material bearing on how this appeal should be considered. In this regard, it has not been necessary for me to seek comments from the main parties in respect of the Consultation Draft Framework.
3. The evidence is that other Inspectors have, at least in part, considered the dormer which is the subject of this appeal. This has been part of the determination of two planning appeals¹ which were dismissed. In respect of the first appeal, the Inspector considered a similarly sized dormer although the focus of his assessment in living conditions terms was whether the effect on

¹ Appeal decision references APP/H0738/D/22/3303167 dated 6 September 2022 and APP/H0738/D/23/3324497 dated 19 September 2023

the privacy of the occupiers of No. 1 Lealholme Grove could be overcome by way of the use of opaque glass. Such an appeal also included the consideration of a single storey infill extension with a pitched roof over the existing garage. The Inspector commented that the *'dormer dominates the rear elevation of the bungalow and relates poorly to the form and size of the original building'* and *'has the effect of disrupting those otherwise pleasant regular features of Lealholme Grove'*.

4. In respect of the second appeal, a similarly sized dormer was considered albeit with one of the windows removed, the insertion of a window to the side gable, and the installation of two front roof lights. The Inspector commented that the dormer would be *'a visually dominant addition to the host property, which would fail to reflect the form and size of the original dwelling'* and when viewed from the side elevation windows of No 1 Lealholme Grove *'would by virtue of its scale, height and position appear as a dominant feature'*.
5. The Council approved a smaller dormer to the rear of the appeal property on 7 January 2022².
6. The above appeal decisions and planning permission are material planning considerations to which I afford significant weight as part of the consideration of this appeal.

Ground (a) appeal and the deemed planning application

Main issues

7. An appeal is made under ground (a) which is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice. I have considered the reasons for issuing the notice and the main issues are the effect of the unauthorised development on (i) the character and appearance of the area and (ii) the living conditions of the occupiers of No. 1 Lealholme Grove in respect of outlook.

Character and appearance

8. The appeal property is a semi-detached bungalow positioned on the corner of Palm Grove and Lealholme Grove. On this side of Lealholme Grove, there is a general consistency to the linear pattern of similarly designed brick built semi-detached bungalows. Most have unbroken roofs and where dormers do exist, they are subservient in scale. The dwellinghouses are set back from the main road with intervening driveways and gardens with low boundary walls. These attributes add positively and distinctively to the character and appearance of the area.
9. The appeal dormer occupies most of the rear roof of the dwellinghouse. It is set in slightly from the side of the roof but is nonetheless positioned off the ridgeline and extends to just above the eaves. As has been previously concluded by other Inspectors, I also find that the dormer looks materially out of place in the street-scene. It is prominent when viewed from Lealholme Grove and appears as a disproportionately large addition to the original dwellinghouse.

² Planning permission reference 21/2526/FUL

10. Moreover, the dormer unacceptably departs from the otherwise mainly unaltered or unbroken roofs that appear on most of the other bungalows in Lealholme Grove. In terms of its size and position, I find that the dormer has a harmful impact on the character and appearance of the area. I acknowledge that there are some other dormers in the locality, but these are not as large as the one that is the subject of this appeal, and they are the exception rather than the norm. While boundary treatment may obscure views of the dormer for those passing very close to the appeal property, it was clear from my site visit that the dormer was conspicuous from medium distance views in parts of Lealholme Grove.
11. For the above reasons, I conclude that the development constitutes poor design and causes significant harm to the character and appearance of the area. Therefore, it fails to accord with the design, character, and appearance requirements of policies SD3 and SD8 of the Stockton-on-Tees Local Plan 2019 (LP), the Council's Householder Extensions and Alterations SPD 2021 which states that *'it is advised to avoid large, flat-roofed dormers and dormers which are the full width of the roof'*, and chapter 12 of the Framework. In reaching this conclusion, I have considered the fact that there is a planning permission in place for a dormer to the rear of the property. However, this is much smaller than the one that is the subject of this appeal and hence would not have the same harmful impacts.

Living conditions

12. Owing to the position, bulk and scale of the dormer, and its close relationship with two ground floor windows on the side elevation of No. 1 Lealholme Grove, I find that it has an overbearing and enclosing impact leading to a material loss of outlook for the occupiers of this neighbouring property.
13. In this case, there is no reason for me to reach a different conclusion of that of the Inspector who considered the 2023 planning appeal. I conclude that the development has resulted in a harmful loss of outlook for the occupiers of No. 1 Lealholme Grove. Consequently, the development does not accord with the amenity requirements of policy SD8 of the LP and paragraph 135(f) of the Framework.
14. In reaching the above conclusion, I have considered the fact that there is a planning permission in place for a dormer to the rear of the property, but this is much smaller than the one that is the subject of this appeal. Therefore, if this planning permission were to be implemented it would not have the same adverse impact on the living conditions of the occupiers of No. 1 Lealholme Grove.

Other material considerations

15. The appellant has commented that the dormer would be permitted development had permitted development rights not been removed from the property. That may be the case, but the fact is that planning permission is required for the breach of planning control and hence the development must be assessed against local and national planning policies.
16. I do not doubt that the appeal dormer would provide some required additional space for the appellant and his family. However, there is a planning permission in place which is still capable of being implemented. This would provide

additional space for the appellant and his family albeit that the approved dormer is smaller. In this context, the requirement for additional space for the appellant and his family is not outweighed by the planning harm caused in respect of my conclusions on the main issues. The collective harm that I have identified is of such weight that a refusal of planning permission is a proportionate, legitimate, and necessary response that would not violate the rights of the appellant and his family under Article 8 of the of the European Convention on Human Rights, as incorporated into the Human Rights Act 1998.

Ground (a) appeal conclusion

17. For the reasons given above, I conclude that the development does not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the ground (a) appeal fails.

Ground (g) appeal

18. The appeal made on ground (g) is that the period specified in the notice in accordance with section 173(9) of the 1990 Act (as amended) falls short of what should reasonably be allowed.
19. The claim made by the appellant under ground (g) is that they were not in the country at the time that the notice was served. He says that more time is needed to undertake the required works and that planning permission was approved for an alternative scheme which he intends to carry out.
20. The compliance period is twelve months. The appellant does not provide specific reasons as to why twelve months would not reasonably allow him to comply with the requirements of the notice. Compliance with the notice would not in itself mean that the existing planning permission for the site could not be subsequently implemented. However, it is noteworthy that the planning permission expires on 7 January 2025.
21. On the evidence that is before me, I find that the compliance period specified in the notice is reasonable. Therefore, I conclude that the ground (g) appeal fails.

Conclusion

22. 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 application deemed to have been made under section 177(5) of the 1990 Act (as amended).

D Hartley

INSPECTOR