



Appeal Decisions

Site visit made on 7 October 2024

by **A Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 October 2024

Appeal A Ref: APP/A0665/C/23/3332582

Appeal B Ref: APP/A0665/C/23/3332583

114 Ollershaw Lane, Marston, Northwich, Cheshire CW9 6ER

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeals are made by Ms Kelly Nield and Mr Andrew Moss against an enforcement notice issued by Cheshire West and Chester Council.
- The notice was issued on 2 October 2023.
- The breach of planning control as alleged in the notice is without planning permission, the installation of cladding to the first-floor front, side and rear elevations of the dwelling and the replacement of a first-floor window on the front elevation of the dwelling with French doors.
- The requirements of the notice are:
Cladding:
 - (i) Remove the dark grey cladding from the first-floor front, side and rear elevations of the dwelling.
 - (ii) Either restore the first-floor front/side elevations of the original dwellinghouse to its previous condition or; re-render the first floor front/side elevations of the original dwelling in a colour that matches that of the single storey front/side ground floor extension.
 - (iii) Render the first-floor front, side and rear walls of the extension granted planning permission under 17/00726/FUL as set out on the application forms submitted as part of 17/00726/FUL.French Doors:
 - (iv) Remove the French doors to the first-floor front elevation.
 - (v) Reinstate a window in the same position as the previous window to the first-floor front elevation measuring 1.6 metres in width by 1.25m in height and block up the resulting opening and finish with a render that matches the render used in compliance with part (ii) above.OR
 - (vi) Reduce the height of the current French doors from the bottom upwards so that they are maximum height of 1.25 metres, reposition the sill to the bottom of the window and block up any resulting opening and finish with a render that matches the render used in compliance with (ii) above.
- The period for compliance with the requirements is 12 months.
- The appeals are proceeding on the grounds set out in section 174(2)(a), (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 of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal C Ref: APP/A0665/W/23/3332519

114 Ollershaw Lane, Marston, Northwich, Cheshire CW9 6ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.

- The appeal is made by Ms K Nield against the decision of Cheshire West and Chester Council.
- The application Ref is 23/01501/FUL.
- The proposed development is for external cladding material and front first floor Juliet balcony.

Summary of Decision: The appeal is allowed.

Appeals A and B – the ground (c) appeal

1. The appeal on ground (c) is whether, on the balance of probabilities, the matters alleged in the enforcement notice (the notice) do not constitute a breach of planning control. The burden of proof is upon the appellant.
2. The appellant contends the French doors are permitted development as their materials match those used in the other windows on the dwelling. Nevertheless, the French doors and the cladding of the dwelling were clearly carried out as a single building operation. It is not permissible to separate out parts of one development and to argue that those benefit from the grant of planning permission by way of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) and that other parts of the same development are to be assessed separately. As one building operation, falling within the meaning of development as set out in section 55 of the Town and Country Planning Act 1990 Act (the Act), either the whole of the development benefits from permitted development or none of the development benefits from permitted development.
3. There is no dispute the cladding requires planning permission and I find no reason to conclude otherwise. Therefore, even if only part of the development required planning permission, ie the cladding, it would all require planning permission and therefore none of it would be permitted development, including the French doors.
4. The ground (c) appeal therefore fails.

Appeals A and B - The ground (a) appeal and the deemed planning application; and Appeal C

Main Issue

5. The main issue is the effect of the development on the character and appearance of the host dwelling and the area.

Reasons

6. The appeal property is located within a small settlement largely confined between the A559 and Ollershaw Lane. Although properties vary in terms of their scale and design, there are small clusters of consistent development. The appeal property forms part of such a development comprising eight, two-storey, semi-detached dwellings with uniform scale, hipped roofs and building line. Notwithstanding their consistent design theme, there is variety in terms of render colour; fenestration colour, proportion and alignment; and, extensions, which overall limits the contribution what consistency they do have has on the character and appearance of the area.
7. The French doors are almost the full height of the first-floor elevation, which is in contrast to the other first-floor windows on the street. However, it is of a fairly narrow design and thus does not dominate the first-floor elevation, with

the solid to void ratio being similar to other properties on the street. Moreover, the doors largely align with the ground floor window immediately below and are positioned a similar distance from the boundary with the adjoining property as the adjacent first floor window.

8. With regard to the cladding, this is a dark-grey colour, of a similar appearance to slate, and contrasts with the lighter-coloured render on neighbouring properties, including the ground floor of the appeal property. However, its use being limited to first floor level ensures it does not unduly dominate the dwelling and provides visual interest that complements, rather than conflicts with, the eclectic property designs and materials within the wider area.
9. Although the cladding clearly contrasts with the render on the neighbouring properties, I do not consider this contrast to be harmful. There are sufficient differences between properties in this row of semi-detached dwellings, in terms of fenestration, render colour and extensions to ensure the cladding does not unduly create an unacceptable disruption of uniformity.
10. The s78 appeal proposal includes a Juliet balcony to be installed in front of the French doors. This would break up the vertical emphasis of the doors, creating greater proportionality with the adjacent window on the adjoining property.
11. I find therefore, the development does not harm the character and appearance of the host dwelling or the area. As such, it complies with Policy ENV6 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies 2015 and Policies DM3 and DM21 of the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies 2019, which seek to ensure development respects local character; respect and where appropriate enhance materials; and, is in keeping with the character and appearance of the original dwelling and surrounding properties. In addition, it would accord with the design objectives of the National Planning Policy Framework.

Conclusion

12. For the reasons given above, having considered the development plan as a whole and all material considerations, Appeals A and B should succeed on ground (a) and planning permission will be granted for the development described in the notice. The enforcement notice will be quashed. For the same reasons, I conclude Appeal C should be allowed and planning permission granted.
13. Given the success on the Appeals A and B ground (a) appeals there is no need to go on to consider the ground (f) and (g) appeals.

Conditions

14. With regard to Appeal C, for the avoidance of doubt, it is appropriate there is a condition requiring the development is carried out in accordance with the approved plans.

Formal Decision

Appeals A and B

15. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the installation of cladding to the first-floor front, side and rear elevations of the dwelling and the replacement of a first-floor window on the front elevation of the dwelling with French doors at 114 Ollershaw Lane, Marston, Northwich, Cheshire CW9 6ER as shown on the plan attached to the notice.

Appeal C

16. The appeal is allowed and planning permission is granted for external cladding material and front first floor Juliet balcony at 114 Ollershaw Lane, Marston, Northwich, Cheshire CW9 6ER in accordance with the terms of the application, Ref is 23/01501/FUL, dated 9 May 2023 subject to the following condition:
- 1) The development hereby permitted shall be carried out in accordance with the following drawings: Site Location plan; Block/Site Plan; YYY4/2016 REV C; YYY5/2016 REV C; and, YYY6/2016 REV C.

A Walker

INSPECTOR

