



Appeal Decision

Site visit made on 11 August 2025

by **P Eggleton BSc(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 August 2025

Appeal Ref: APP/A4710/D/25/3367854

3 Providence Hill, Beestonley Lane, Stainland, Elland HX4 9PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr A Cigan against the decision of Calderdale Metropolitan Borough Council.
 - The application reference is 25/00395/VAR.
 - The application sought planning permission for balconies to rear elevation and external alterations to windows and doors without complying with a condition attached to planning permission reference 21/00831/HSE dated 9 September 2021.
 - Condition number 1 is in dispute which states that: The development shall be carried out in accordance with the schedule of approved plans listed above in this decision notice, unless variation of the plans is required by any other condition of this permission.
 - The reason given for the condition is: For the avoidance of doubt as to what benefits from planning permission and to ensure compliance with the Development Plan and National Planning Policy Framework.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr A Cigan against Calderdale Metropolitan Borough Council and this is the subject of a separate decision.

Main issue

3. The main issue is whether the proposal would preserve or enhance the character or appearance of the conservation area.

Reasons

4. Of relevance to this appeal, the originally approved plans accepted the provision of balconies to the rear of the existing dwelling and changes to the fenestration. In particular, the upper and mid-level windows were permitted to be lengthened, whilst retaining a similar width. This resulted in two doors to each balcony rather than the original two windows. The approved glazed doors were shown to have glazing dividers resulting in six individual lights to each door panel.

5. The current proposal is to amend the rear elevation details to allow for the area between the upper windows on both upper levels, to also be glazed resulting in a single wide opening that would be filled by three glass panels, without internal glazing bars. This approach would be extended to the ground floor which was originally approved as having full width glazing but in four sections with internal glazing bars to match those above. This proposal includes three glass panels with no glazing bars across the originally approved opening.
6. The three levels of glazed panels have been installed as shown on the submitted plans. However, the balconies are not in place. I have therefore assessed the plans submitted rather than the works on site. With the glazing panels in place however, it was possible to understand more clearly what the finished proposal would look like, particularly in longer views, across the fields, from Coldwells Hill to the south.
7. Some views of the rear of this property are restricted due to the presence of a large tree just to the rear of the building. This restriction would be reduced in winter. However, even with the tree in place and in leaf, there are many opportunities to view the rear of this terrace. The large glazed panels dominate the rear elevation and the reflected light ensures that they appear as prominent features on this elevation. The two upper level sets of panels are particularly prominent. The balconies, when built, may help to bring some relief to this considerable expanse of glazing but they would continue to appear as being entirely out of place and entirely at odds with the design of this building and its neighbours.
8. The property lies within Stainland Conservation Area and this group of terraced properties, along with the group further to the east, are prominent features on the edge of this designated heritage area. The views up to the conservation area are dominated by these stone buildings which generally have a simple traditional form with relatively small windows and a greater amount of stone in comparison to glazing, particularly at the upper most level. The neighbouring property is slightly different with a rear facing bay window on two levels but this has not changed the overall character. The glazing that has been installed at the appeal property stands out in these views and result in considerable harm to the appearance and character of the edge of this settlement. The glazing fails to preserve or enhance the character or appearance of the conservation area.
9. The Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty requiring that special attention be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. The National Planning Policy Framework is clear that any harm to a heritage asset, such as a conservation area, should be weighed against the public benefits of the proposal. The harm to the conservation area would be less than substantial as defined by the Framework. However, although there are benefits to the improvement of the fabric of buildings and economic benefits from the works, these public benefits are not sufficient to outweigh the harm that would continue should this proposal be completed and the glazing retained. The proposal would conflict with the heritage and design requirements of policies HE1, BT1(I&II) and GN4 of the Calderdale Local Plan (2023); and the heritage and design objectives of the Framework.
10. The appellant suggests that the bi-fold doors already installed are lawful and were commenced before the planning permission was granted. This appeal is not an appropriate forum to determine lawfulness. An application has been refused and an appeal dismissed in this regard. This appeal can only consider changes to the

approved plans in line with the requirements of the development plan and the Framework. Had a lawful development certificate been presented, demonstrating lawfulness, it could have been considered as a fall-back position. In the absence of such a certificate, it cannot be assumed, as part of this appeal, that the suggested fall-back position is lawful. Indeed the evidence is to the contrary following appeal reference APP/A4710/X/24/3344259.

11. Whilst the appellant's arguments in this regard are noted, including the order of events and the belief that the council and the previous inspector misdirected themselves, a resolution would have been to challenge the appeal decision or submit a new lawful development application with all supporting evidence and legal arguments. This appeal cannot re-consider that lawfulness case. Without a certificate of lawfulness for the existing works or a demonstration of an alternative lawful fall-back position, this appeal can only consider the planning merits of the two schemes. Furthermore, although full details of chronologies have been provided, this appeal process does not offer the council or third parties any opportunity to respond. Seeking to reach a view on lawfulness, through this appeal, would therefore also prejudice the council in particular, if done through this procedure.
12. In conclusion, I have had regard to the circumstances of this case and I note the support offered locally. I am not able to make a determination as to the lawfulness of the existing works as to do so would go beyond the scope of this appeal procedure and would prejudice the council in particular. The alternative design proposed would result in harm to the conservation area and would fail to preserve or enhance it. It also represents poor design in this context. There are no matters that outweigh these concerns. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR