



Appeal Decisions

Site visit made on 26 August 2025

by **M. P. Howell BA (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 SEPTEMBER 2025

Appeal A Ref: APP/Z1775/C/23/3334626

Appeal B Ref: APP/Z1775/C/23/3334627

120 Orchard Road, Portsmouth PO4 0AD

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- Appeal A is made by Mr Jagmohan Singh and Appeal B is made by Mrs Gurmeeth Kaur Singh against an enforcement notice issued by Portsmouth City Council.
- The notice was issued on 8 November 2023.
- The breach of planning control as alleged in the notice is without planning permission, the construction of a front dormer finished in materials that do not match the recipient dwellinghouse, in breach of householder permitted development rights as specified by Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 1, Class B.1: "Development is not permitted by Class B if:
(c) Any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway."
AND
B.2: "Development is permitted by class be subject to the following conditions
(a) the materials used in any exterior work shall be of a similar appearance to those used in the construction of the exterior of the existing dwelling house...."
- The requirements of the notice are to:
 - 1) remove the unauthorised dormer from the front roof slope and reinstate the roof with the tile to match the remaining original roof tiles.
 - 2) Remove from the Land all associated building materials rubble and fixtures and fittings arising from compliance with the enforcement notice.
- The period for compliance with the requirements is : six (6) months.
- Appeal A 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.
- Appeal B is proceeding on the grounds set out in section 174(2) (g) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeals are dismissed, and the enforcement notice is upheld with a correction and variation.

Matters Concerning the Enforcement Notice

1. It is incumbent upon me to put the Enforcement Notice (Notice) in order. I have had regard to my powers under section 176(1)(a) of the Town and Country Planning Act 1990 (1990 Act) to correct any defect, error or misdescription in the Notice or, under section 176(1)(b), to vary the terms of the Notice. In each case, the test is whether the correction or variation would not cause any injustice to the appellant or the Council.
2. In paragraph 3 of the Notice, the wording of the alleged operational development refers to the finishing materials of the alleged dormer development as well as reciting parts of Schedule 2, Part 1, Class B, the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) and its

conditions and limitations. Although it is appreciated that the Council are setting out the reasons why the dormer is not a development that benefits from these permitted rights, it is not necessary to include such detail in the allegation. Given that the matter at hand pertains specifically to the construction of a front dormer, all wording following 'dormer' can be omitted. For clarity, the revised allegation should state: "without planning permission, the construction of a front dormer."

3. I am satisfied that this is an instance where I can exercise my power to correct the allegation Notice without giving rise to injustice or altering the nature of the breach.

Preliminary Matters

4. During the course of the appeal, the revised National Planning Policy Framework December 2024 (the Framework) was published. There are no substantive changes relevant to the appeal before me, and therefore the parties would not be prejudiced by my consideration of the 2024 version of the Framework.

The Ground (a) and the Deemed Planning Application

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

Reasons

6. Orchard Road and its surrounding area are predominantly residential in character. The property located at 120 Orchard Road is a mid-terrace, two-storey period building constructed of brick. The neighbouring dwellings on the same side of the street feature modest plot sizes, are primarily finished in red brick, and incorporate pitched roofs. These properties are set behind small front walls, adorned with bay windows, creating a cohesive visual environment. Aside from the roofs over the traditional first-floor bay windows, the front roof plane along this side of Orchard Road remains largely unaltered.
7. Based on my observations during my visit and the evidence presented, the consistent building line, plot layout, coherent design features, largely unaltered front roofscape, and similar materials collectively contribute to a harmonious and uniform character in the street scene. The properties, including No. 120 on the appeal side, have retained their traditional form and character, which is fundamental to the overall significance of the area's character and appearance.
8. Although it does sit within the existing roof, by virtue of its scale, height and flat-roofed design, the dormer is a significant addition that occupies most of the width and depth of the front roof plane of the property. The window design and proportions are not consistent with the existing first-floor openings, and the use of a grey weatherboard-type cladding contrasts with the more dominant concrete tile present in the street. In this context, the dormer emerges as a discordant and bulky box-like feature on the front roof plane, undermining the original shape and form. Its position at the front also disrupts the largely unaltered roofscape of the immediate terrace and has a pronounced visual impact within the street scene.
9. Consequently, the development adversely impacts the traditional form, character, and appearance of the host property. The alterations to the roof diminish the collective consistency of the unaltered roofscape along this side of Orchard Road, which is integral to the character and appearance of the street scene. Although

imposing a condition requiring the materials to match the existing roof may mitigate some concerns, it does not resolve the fundamental issues raised above.

10. The appellants have pointed out certain variations within the street scene, including lean-to porches, modified elevation finishes, pitched roof dormers, altered window openings, and front boundary walls. However, in my judgement, these variations are in the minority, and the predominant scale, form, and finish of the host dwelling and terrace, particularly on the appeal side of the road, have been largely preserved. This uniformity significantly contributes to the area's character and appearance, and in my judgement, the aforementioned changes do not create a varied character and appearance within the street scene.
11. I have considered the two flat-roof dormers located on the side elevations of 168 and 170 Talbot Road, which face Orchard Road. However, based on my observations, these properties are separated from the corresponding properties along Orchard Road by a significant gap. Additionally, their dormers are positioned on side elevations and do not align with, or reflect, the character and appearance of the properties that face Orchard Road. Therefore, the presence of these dormers does not alter my conclusions regarding the prevailing character and appearance of the streetscape, nor the impact of the dormer subject of this appeal.
12. In conclusion, the development results in an adverse impact on the character and appearance of both the host property and the surrounding area. It contravenes Policy PCS23 of The Portsmouth Plan, Portsmouth's Core Strategy 2012, which mandates that developments be well designed, respect the character of the city, and demonstrate excellence in architectural quality alongside appropriate scale, density, layout, appearance, and materials.

Other matters

13. The appellant refers to Policy CS16 in their appeal statement; however, it was not referred to in the reasons for issuing the Notice, and I have not been provided with a copy of it. As such, I have not had regard to this when making my decision.
14. I acknowledge that the site is outside a conservation area and is not designated as a heritage asset. However, the Notice does not cite any impacts on heritage assets in the reasons for taking action, and the policy referred to includes criteria that promote good design in all developments. Therefore, Policy PCS23 of the Local Plan is relevant to the determination of the appeal.
15. I recognise that upholding the requirements of the Notice will prevent the appellant's son from using the bedroom and bathroom facilities included in the dormer. I have considered Article 8(1) of the European Convention on Human Rights, as incorporated into the Human Rights Act (1998), which guarantees the right to respect for private and family life, home, and correspondence. Dismissing the appeal would, therefore, interfere with the appellant and his child's rights under Article 8.
16. However, I believe that the legitimate and well-established planning policy goal of protecting the character and appearance of the area justifies the dismissal of the appeal and is proportionate to the circumstances. The interference with the appellant's family rights under Article 8 is not excessive, as the public interest in

maintaining the character of the area cannot be adequately achieved through less intrusive means.

17. I acknowledge the improvements the appellant has made to the accommodation within the property, which could be viewed as a public benefit. However, this benefit is limited and does not outweigh the significant impact the dormer has on the character and appearance of the site and surrounding area. Despite receiving a representation supporting the development from a neighbour, this also does not outweigh the identified harm to the character and appearance of the area.

Conclusion on Ground (a) and Deemed Planning Application

18. For the reasons given above, I conclude that the Appeal A should not succeed on ground (a). I shall uphold the enforcement notice with a correction and variation, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Appeal A and Appeal B on ground (g)

19. An appeal on ground (g) is that the period specified in the notice falls short of what should reasonably be allowed. The Notice specifies that the requirements should be carried out 6 months from the date the Notice takes effect.
20. The appellant contends that additional time is required, requesting an additional 6 months, and a total of 12 months to comply with the requirements of the Notice. The main reasons are cost and disturbance of removing the dormer, and the need to find alternative accommodation for the child with visual impairment who occupies the bedroom in the roof, and benefits from the nearby bathroom facilities.
21. Having regard to the potential disruption to the family and the child occupying the room, I consider that a period of more than six months can be justified. However, extending the period of compliance to 12 months would be excessive given the small scale of the development and how it would prolong the identified harm to the character and appearance of the area. On this basis, I consider that a period of 9 months for the appellant to comply with the corrected Notice would strike an appropriate balance between the need to minimise the identified harms and the need to minimise disruption to the occupants of the property.
22. When coming to this conclusion, I have considered Article 8(1) of the European Convention on Human Rights, as enshrined in the Human Rights Act (1998), and the Public Sector Equality Duty imposed by section 149 of the Equality Act 2010.
23. To this limited extent, the appeal on ground (g) succeeds. I shall vary the terms of the Notice accordingly.

Formal Decisions

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24. It is directed that the Notice be corrected and varied by:

In paragraph 3 of the Notice, the deletion of the allegation and substitute it with the words 'without planning permission, the construction of a front dormer.'

In paragraph 6, specifying the time for compliance, the deletion of the numbers and words '6 (six)' and their substitution with the numbers and words '9 (nine)'.

25. Subject to the correction and variation, the appeals are dismissed, and the Notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

M. P. Howell

INSPECTOR