



## SHEFFIELD CITY COUNCIL Planning & Highways Committee

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**Report of:** The Head of Planning

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**Date:** 10 October 2023

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**Subject:** RECORD OF PLANNING APPEALS  
SUBMISSIONS & DECISIONS

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**Author of Report:** Abby Hartley

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**Summary:**

List of all newly submitted planning appeals and decisions received, together with a brief summary of the Inspector's reason for the decision

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**Reasons for Recommendations**

**Recommendations:**

To Note

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**Background Papers:**

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**Category of Report:** OPEN

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## 1.0 RECORD OF PLANNING APPEALS SUBMISSIONS AND DECISIONS

This report provides a schedule of all newly submitted planning appeals and decisions received, together with a brief summary of the Secretary of State's reasons for the decisions.

### 2.0 NEW APPEALS RECEIVED

(i) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for the upgrading of existing 48 sheet advertisement display to a digital poster at 668 Barnsley Road, Sheffield, S5 6UB (Case No: 23/00760/HOARD).

(ii) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for the erection of a single-storey rear extension to roof terrace area (resubmission of refused application 22/01508/FUL) at Flat 7, 3 Kenwood Road, Sheffield, S7 1NP (Case No: 22/03997/FUL).

(iii) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse a prior notification application for the erection of 20m street pole with associated cabinets (Application for determination if approval required for siting and appearance) at Causeway Head Road, adjacent to junction with Parkers Lane, Dore, Sheffield, S17 3DP (Case No: 22/03772/TEL).

(iv) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse a prior notification application for the erection of 20m streetpole with associated cabinets and ancillary works (Application to determine if approval required for siting and appearance) at land at junction with Machon Bank Road, Sheffield, S7 1PE (Case No: 22/03717/TEL).

(v) An appeal has been submitted to the Secretary of State against the committee decision of the City Council to refuse planning permission for the demolition of outbuildings and use of former bakery/cafe (Use Class E) as a dwellinghouse (Use Class C3) with associated alterations to fenestration and landscaping (Re-submission of 21/03292/FUL) at Mobri Bakery, St Mary's Lane, Ecclesfield, Sheffield, S35 9YE (Case No: 22/02585/FUL).

### 3.0 APPEALS DECISIONS – DISMISSED

(i) To report that an appeal against the delegated decision of the Council to refuse planning permission for the installation of 12 to 14 no. Photo Voltaic (PV) panels on roof, and Electric Vehicle (EV) charging point to parking bay at 28 Alexandra Gardens, Sheffield, S11 9DQ (Case No: 22/04524/FUL) has been dismissed.

Officer Comment:-

The Inspector identified the main issue as being whether the proposal would preserve or enhance the character or appearance of the Nether Edge Conservation Area (NECA) and Nether Edge Hospital, Kingswood Building, a Grade 2 Listed Building.

They noted the significance of the NECA derives from its architectural quality, layout of buildings and its verdant character, and the significance of the Kingswood Building from its origins as a workhouse and its architectural features with the necessity to pay special attention to the desirability of preserving its setting.

They noted the appeal property was a 3-storey mid terraced dwelling in a wing that projects from the Kingswood Building and helps frame its rear elevation. They felt the installation of 8 solar PV panels on the rear roof slope would not have a direct relationship with the listed building in views from the public realm and isolation would preserve its character and appearance.

However, they felt the 4 panels of the front roof slope would result in an isolated and alien feature on an otherwise vast expanse of unbroken roof slope, and would not align with windows below, adding to their incongruity. They would contrast starkly with the grey slate roof making them appear conspicuous.

The Inspector felt they would be to the detriment of the setting of the listed building and the character of the NECA and this harm would be less than substantial, requiring a balancing exercise against public benefit as required by the NPPF.

Public benefit would derive from the delivery of renewable energy and its contribution to a low-carbon future, which given the scale attracted moderate weight in favour of the proposals. Energy security and cost savings were also benefits but unquantified and were attached limited weight in favour of the proposals.

The appellant drew attention to solar PV installations on nearby dwellings which the Inspector acknowledged but felt they had a materially different relationship with the listed building, giving them limited weight.

In concluding the Inspector attached considerable importance to the preservation of the character and appearance of the NECA and the listed building attaching great weight, and felt the less than substantial harm to these assets was not outweighed by the limited public benefits of the scheme,

and the appeal was dismissed.

(ii) To report that an appeal against the delegated decision of the Council to refuse planning permission for the partial demolition of and alterations to existing dwelling including: the erection of a two/three storey extension (with glazed link, rooftop terrace and undercroft storage); erection of garden studio (detached); revised parking arrangements; and associated landscaping at 70 Riverdale Road, Sheffield, S10 3FD (Case No: 22/03675/FUL) has been dismissed.

**Officer Comment:-**

The Inspector considered the main issue to be whether the development preserves or enhances the character of the Ranmoor Conservation Area.

The Inspector highlights the prominent setting of the dwelling on the approach up Oakbrook Road, noting that the dwelling creates a focal point along this vista. The dwelling is on the edge of the Conservation Area, and when entering the Conservation Area from the east, along Riverdale Road the dwelling is viewed in the context of established vegetation both on and off site.

The Inspector finds that the architectural design and features of the dwelling, along with its verdant setting, contribute positively to the character and appearance of the Conservation Area.

The appeal proposals are for substantial alterations and extension of a contemporary design, incorporating a mixed palette of materials and a variety of design approaches. The Inspector concludes that from Riverdale Road, the extension would project above the boundary wall, and the large scale of the proposal would obscure much of the east elevation of the existing dwelling. The flat roof form, glazed balustrade and window designs would markedly contrast with the existing dwelling. When viewed from Oakbrook Road, the extension would appear at odds with the host dwelling and would compete with the original.

From inside the site The Inspector considered that the scale of the extension would visually dominate the modest and unassuming scale of the existing property. The loss of two silver birch trees from within the site would expose the site, making the extension even more prominent.

The inspector concluded that the proposal would be a negative addition which would fail to preserve or enhance the character or appearance of the Conservation Area. The impact on the Conservation Area would be less than substantial and would not be outweighed by public benefits.

The associated application for an award of costs was also refused.

#### 4.0 APPEALS DECISIONS – ALLOWED

Nothing to report.

## 5.0 CIL APPEALS DECISIONS

Nothing to report.

## 6.0 NEW ENFORCEMENT APPEALS

(i) An appeal has been submitted to the Secretary of State against the Enforcement Notice served in respect of the breach of planning control as alleged in the Notice which is the unauthorised construction of a rear dormer extension to the property on the Land, and the change of use of the property comprising the use of the second floor as a separate residential flat within the property at 283-285 Shoreham Street (Our ref: 22/00575/ENCHU, Inspectorate ref: APP/J4423/C/23/3327003).

## 7.0 ENFORCEMENT APPEALS DISMISSED

(i) To report that an appeal against the Enforcement Notice issued by the Council for the unauthorised execution of operational development consisting of the erection of a front dormer roof extension at 35 Calvert Road, Sheffield, S9 5EU (Our ref: 22/00176/ENUHD, Inspectorate ref: APP/J4423/C/22/3312922) has been dismissed.

### Officer Comment:-

The appellant appealed against the service of the notice on grounds (a) that planning permission should be granted, (c) if the matters alleged have occurred, they do not constitute a breach of planning control, (d) that at the time the notice was issued it was too late for enforcement action to be taken, (f) that the requirements of the notice exceed what is necessary to remedy the breach of control alleged and (g) that the time given to comply with the notice is too short.

Ground (a) (Appeal failed) The main issues were the effect of the development on the character and appearance of the host property and surrounding area. The development was the addition of a substantial sized dormer roof extension constructed of brick to the front elevation. It had an excessive length spanning across the roofline of the property with limited setback from the eaves. The width and height of the dormer roof extension resulted in it sitting just above the ridge height. Given this, the materials and positioning on the roof it appeared as almost an additional floor to the property.

The Inspector determined that the dormer resulted in a bulky and dominant feature, overpowering the roof form of the host property and that particularly of neighbouring property and the wider terrace row. In addition, the negative

and unbalanced appearance further exacerbated by the position of the large openings in the front which did not align with the proportions or replicate any fenestration details of the existing property nor those within the terrace row the property sits within, adding to its harmful appearance.

Therefore, the Inspector concluded that the dormer extension was a substantial addition to the roof and appears as an incongruous addition to the host property when viewed from Calvert Road and the wider area. Therefore, considered to cause unacceptable harm to the character and appearance of the host property and surrounding area.

The appellant also raised concerns on their individual circumstances of wanting additional living space within the property, delays with architects, builders, materials and Covid-19. However, the Inspector determined that these matters do not outweigh the harm identified, nor justify granting planning permission for the development.

The Inspector also considered the Article 8 of the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) under the Equality Act 2010. The appellant's family, who intend to occupy the property have protected characteristics for the purposes of the PSED. However, the Inspector was satisfied that any interference with the human rights of the appellant, their family and potential occupants of the property was necessary and proportionate to avoid unacceptable harm to the character and appearance of the area.

Ground (c) (Appeal failed) - The burden of proof is on the appellant and the relevant test of the evidence is made on the balance of probabilities. The Inspector confirmed that the dormer was in breach of the General Permitted Development Order relating to alterations or additions to roofs and therefore planning permission was required.

The appellant claimed that that planning permission had been granted in 2006 to build a front dormer, which was not limited to any scale / form / size. The 2006 permission was for a 'Two-storey rear extension, single-storey side extension to form garage and erection of front dormer windows to dwellinghouse (which was a resubmission of application 05/02575/FUL that was refused)'. The permission was granted together with the relevant plans.

The appellant in support of their appeal included a letter relating to an application seeking building regulations approval for 'alterations to 3 dwellings to form 1 including two storey rear extension, single storey side extension, front dormer windows to dwellinghouse. (Resubmission Application)'. The Inspector's view was that the letter may indicate that the appellant had an intention to commence development it does not confirm that any development had commenced or that it had been substantially completed.

The Inspector further confirmed that the plans showed 3 rooflights in the front elevation and did not show a front dormer roof extension and the application form which accompanied the application did not confirm at that time the

application sought a front dormer roof extension. Furthermore, the officer report did not mention anything about the dormer extension. However, the Council accepted that the description of development in the 2006 permission incorrectly stated front dormer windows and this was a clerical error as such, the Inspector was satisfied that planning permission for front dormer windows was not granted in 2006, or that any extant permission exists for the alleged breach of planning control that being a front dormer roof extension.

Ground (d) (Appeal failed). A number of receipts were provided from a DIY shop from the appellant, however, the Inspector did not give weight either for or against allowing the appeal given that they did not specify that the materials were used or if they were for this development. The appellant's case was contradicted by the Council's evidence in respect of the dates given for the project, dormer works, the complaint and the Council's investigations made.

In addition, the requirement for ground (d) in the case of building operations, the whole of the alleged development must be 'substantially completed' more than 4 years before the date on which the notice was issued. The photo provided by the Council showed that the front dormer roof extension was not substantially completed on the date which the notice was issued, and the appellant accepts in the evidence they have not been able to finish the works.

Therefore, the Inspector, concluded, on the balance of probabilities, that the development was not substantially completed more than 4 years before the notice was issued. Therefore, appeal on ground (d) fails.

Ground (f) (appeal failed) The purposes of an enforcement notice are set out in section 173 of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)). Since the notice requires the removal of the front dormer roof extension and reinstatement of the roof to its former condition the purpose is clearly to fully remedy the breach and would not be fully remedied if the front dormer roof extension was allowed to remain on site, and the appellant did not provided sufficient evidence, to show that any lesser steps as those suggested, including size and scale would remedy the breach. Consequently, the Inspector concluded that the requirements were not excessive.

Ground (g) (appeal failed) The notice required compliance within six months of it coming into effect. The appellant sought an extension of time to the six months but did not specify what extent a reasonable timeframe would be. The appellant set out various reasons to the extension such as the current climate, increasing costs, raising funds, personal circumstances of their family, loss of the builder and trying to seek assistance to understand the full costs and building time scales.

The Inspector stated that the appellant has not provided any substantive evidence to support this part of the appeal and found inconsistencies throughout the evidence. Therefore, the Inspector was not satisfied that any assistance and builders cannot be found, and the works commissioned within

six months by that of a builder. Furthermore, given that the appeal 'stopped the clock' and the period for compliance does not start until the date of the appeal decision, the inspector concluded that the six months is a reasonable period.

The inspector further stated that, given the development is causing significant harm to the character and appearance of the surrounding area and fails to reinforce local distinctiveness. Therefore, it is in the public interest for the breach of planning control to be remedied as soon as reasonably possible.

## 8.0 ENFORCEMENT APPEALS ALLOWED

(ii) To report that an appeal against the Enforcement Notice issued by the Council for the unauthorised execution of operational development consisting of the erection of a front dormer at 121 Norton Lane, Sheffield, S8 8GX (Our ref: 22/00383/ENUHD, Inspectorate ref: APP/J4423/C/22/3312495) has been allowed.

### Officer Comment:-

The appellant appealed against the service of the notice on grounds (a) that planning permission should be granted; (g) that the time given to comply with the notice is too short.

On the ground (a) appeal, the main issue was the effect of the front dormer extension upon the character and appearance of the appeal property.

The Inspector determined that the dormer window maintains largely good spacing around it and to the extremities of the roof, he considered that the alignment of the ridge with that of the main house roof did not appear as an excessively scaled or overly dominant addition to the roof. The window depth is less than that of windows within the bay at lower levels, however, the inspector whilst accepting that the misalignment of the dormer with those windows below. The Inspector concluded that the window was not harmful to the character or appearance of the property nor to be fatal, therefore, the appeal under ground (a) succeeded.

The appeal on ground (g) therefore was not considered.

## 9.0 RECOMMENDATIONS

That the report be noted.

*Michael Johnson*





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