

## Appeals Determined North Sunderland

Between 01/03/2011 and 31/03/2011

| Team | Ref No       | ADDRESS                                  | Description  | Appeal Decision | Date of Decision |
|------|--------------|--|--|-----------------|------------------|
| N    |              |  |  |                 |                  |
|      | 10/00034/ENF | 29 Cromwell<br>Street Sunderland SR4 6EU | <p>Breach Without planning permission the construction of two flat-roofed dormers in the front west-facing roof plane of the dwelling, shown by an arrow on the attached plan.</p> <p>Reasons for notice The development was incomplete at the time this notice was issued. Flat roofed front dormers fail to comply with Policy B2 of the council's adopted Unitary Development Plan which states that extensions to existing buildings should respect and enhance the best qualities of nearby properties and the locality and retain acceptable levels of privacy. In addition, Section 3.5 of the council's adopted Supplementary Planning Guidance: Development Control Guidelines document states that new front dormer extensions to traditional 'Sunderland Cottages' are not normally appropriate. In particular Section 3.5g states that only where more than 50% of the properties in the street have been altered in an unsympathetic manner would consideration be given to permitting new dormers.</p> | DISVAR          | 18/03/2011       |



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## Appeal Decision

Site visit made on 1 March 2011

by D A Hainsworth LL.B(Hons) FRSA Solicitor

an Inspector appointed by the Secretary of State for Communities and Local Government

**Decision date: 18 March 2011**

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### **Appeal Ref: APP/J4525/C/10/2141212**

### **29 Cromwell Street, Sunderland SR4 6EU**

- The appeal is made by Mohammed Kamal Hassan under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: 10/00034/ENF) issued by Sunderland City Council on 14 October 2010.
- The breach of planning control alleged in the notice is the construction of two flat-roofed dormers in the front west-facing roof plane of the dwelling.
- The requirements of the notice are as follows: -
  - “(i) Dismantle the front dormer window constructions such that no part is left projecting beyond the front plane of the existing pitched roof.
  - (ii) Following removal of the dormers, make good the roof by replacing timber rafters of appropriate section in the resulting void, at the appropriate spacing and in the same plane as the existing pitched roof structure. Provision should be made for any underlying support, as necessary, having regard to the house and roof construction and current Building Regulations standards. Recover the affected areas with underfelt, slater’s lathes at the appropriate spacing, and natural slates of a size, colour and spacing to match the existing slates. Replace matching ridge tiles set in cement mortar.
  - (iii) Remove from the land all surplus building materials and refuse arising from compliance with requirements (i) and (ii) above.”
- The period for compliance with these requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (e) and (f).

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### **Decision**

1. I direct that paragraph 6 of the enforcement notice be varied by substituting “Nine” for “Two”. Subject to this direction, I dismiss the appeal, uphold the enforcement notice as varied and refuse to grant planning permission on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990.

### **Reasons for the decision**

#### *Ground (e)*

2. The Council sought to bring the notice to the appellant’s attention by various means but it was not received by him until ten days before it was due to take effect. The Council consider they met the statutory requirements relating to the service of the notice by relying on the address given in the Land Registry title, but this address was recorded in 1985 and the Council’s up-to-date enquiries indicated that the appellant had not lived there for some time. Furthermore, the Council held another address for him in their records.

3. The Council have not shown that the notice was in fact served as required by sections 172 and 329. However, the appellant was not substantially prejudiced by any failure to serve him as required, since he was able to submit his appeal within the time allowed and to specify in sufficient detail the grounds on which it was made. I have therefore exercised the power in section 176(5) to disregard any failure to serve him as required. The appeal on ground (e) fails.

*Ground (a)*

4. The main issue is the effect of the dormers on the appearance of the cottage and the street scene.
5. The Council's latest advice about dormers is in the "Household Alterations and Extensions" supplementary planning document (SPD), which they adopted in July 2010. It contains specific advice about dormer extensions in the single-storey terraced blocks of Sunderland Cottages, such as 22-42 (consecutive numbers) Cromwell Street, as well as advice about dormer extensions to dwellings in general.
6. The SPD advises that front dormer extensions to Sunderland Cottages are not generally considered to be appropriate, but that in limited instances there may be scope for carefully designed ones to be incorporated. It indicates that front dormers are potentially acceptable in blocks of Sunderland Cottages where at least 50% of the cottages in the block already feature them, but that all applications will be considered on their individual merits and there may be instances where they will not be acceptable even though 50% of the cottages in the block already have them.
7. There are twenty-one cottages in the block containing 29 Cromwell Street. Eleven of these (52%) already have front dormers. The front dormers nearing completion at No 29 are therefore potentially acceptable within the advice in the SPD, subject to their being considered on their individual merits.
8. Although 52% of the cottages have front dormers, those being built at No 29 are prominent in the street scene because there are no others in the row of five cottages between Nos 27 and 33. They fail to comply with the general advice about front dormers in the SPD, since they occupy over one third of the front-roof area and do not appear as a small addition to the roof. They also have flat roofs, which the SPD states will generally be resisted, but in this respect they match nine out of the eleven front dormers in the block. Their main drawbacks are their prominence in the street scene and the amount of roof area they occupy, which result in them failing to achieve the quality of development called for by Policy B2 of the Sunderland Unitary Development Plan.
9. Whilst there is scope for the construction of a front dormer or dormers at No 29 that might achieve a satisfactory standard of design, those being built have an unacceptable impact on the appearance of the cottage and the street scene. I appreciate that the appellant and his family need more spacious living accommodation and that he has worked hard to raise funds to provide for his family, but these factors are not sufficient to outweigh the visual objections to the front dormers under construction and I have come to the conclusion that permission should not be granted for them.
10. The appeal on ground (a) therefore fails.

*Ground (f)*

11. The requirements of the notice set out the normal steps for dealing with unacceptable building work carried out without permission, namely the dismantling of the work, the restoration of the building and the removal of surplus materials and refuse. The appellant has not indicated how any lesser steps could overcome the objections to the front dormers. The requirements do not exceed what is necessary to remedy the breach or the injury to amenity that has been caused.
12. The essence of the appellant's representations under ground (f) is that the removal of the front dormers would be costly and difficult structurally and could make the cottage unsafe. The Council accept that structural alterations would be needed as set out in the second requirement of the notice, but they consider the removal of the front dormers to be structurally feasible. I have no reason to doubt the advice given by the Council's Building Control Surveyor on this matter or to conclude that the requirements of the notice could not be carried out successfully in practice, but I have taken the appellant's representations into account when considering the time allowed for compliance with the notice.
13. The appeal on ground (f) fails.

*The time allowed for compliance with the notice*

14. The notice allows two months for compliance with its requirements. Three factors have arisen in the appeal that indicate that this period is too short. Firstly, as I noted under ground (a), there may be scope for acceptable alternative proposals to be put forward. Secondly, the appellant may need to raise funds to undertake the requirements. Thirdly, the structural concerns indicate that professional advice and Building Regulations approval may be needed and that the works should be carried out carefully.
15. Taking all these factors into account, a reasonable compliance period would be nine months. I have therefore extended the period from two months to nine.

*D.A.Hainsworth*

INSPECTOR