
Appeal Decision

Site visit made on 6 September 2016

by Jason Whitfield BA (Hons) DipTP MRTPI

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

Decision date: 29th September 2016

Appeal Ref: APP/C5690/W/16/3151141
70 Manor Avenue, Lewisham, London SE4 1TE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs J Ewen-Smith against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/16/095620, dated 15 February 2016, was refused by notice dated 19 April 2016.
 - The application sought planning permission for the conversion of house into 3 self contained units to include single storey extension at lower ground floor and enlargement of dormer on rear roof slope together with architectural improvements to window detailing without complying with a condition attached to planning permission Ref DC/13/83549 (Appeal Ref APP/C5690/A/13/2208383), dated 12 May 2014.
 - The condition in dispute is No 2 which states that: *"The development hereby permitted shall be carried out in accordance with the following approved plans and documents: 12/1311 E.01, 12/1311 P52, 12/1311 P53, Site Plan, Design and Access Statement, Heritage Statement and Sustainability Statement"*.
 - The reason given for the condition is: *"To ensure the development provides a satisfactory appearance and in the interests of good planning."*
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of house into 3 self contained units to include single storey extension at lower ground floor and enlargement of dormer on rear roof slope together with architectural improvements to window detailing and installation of a new front conservation style roof light at 70 Manor Avenue, Lewisham, London SE4 1TE in accordance with the application Ref DC/16/095620 dated 15 February 2016, without compliance with condition number 2 previously imposed on planning permission Ref DC/13/83549 (Appeal Ref APP/C5690/A/13/2208383), dated 12 May 2014 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 12/1311 E.01, PLN 02, Site Plan, Design and Access Statement, Heritage Statement and Sustainability.
 - 2) Notwithstanding Condition 1, no development shall take place until detailed plans at a scale of 1:20 showing the treatment of the platform adjacent to the Juliet balcony, and the associated balustrade have been submitted to and approved writing by the local planning authority.

Development shall be carried out in accordance with the approved details.

Procedural Matters

2. Although not explicitly set out within the Schedule of Conditions of the appeal decision referred to above, the Inspector's reasons for the imposition of Condition 2 are set out in the main body of the decision letter. The wording in the heading above reflects my understanding of the Inspector's reasons for imposing the disputed condition.
3. The description in the banner heading above is taken from the original grant of planning permission. Having considered Section E of the appeal form and the Council's decision notice, I have used a revised description in the formal decision above to reflect the proposed amendment to incorporate a roof light to the front of the property.

Background and Main Issue

4. Planning permission for the conversion of the appeal property to 3 self contained units and associated extensions and alterations was granted on appeal (Appeal Ref APP/C5690/A/13/2208383). Condition 2 requires that the development be carried out in accordance with the approved plans and documents.
5. The application subject to this appeal is made under S73 of the Act for minor material amendments¹. Amendments are sought to the dormer on the rear roof slope, the rear extension and associated roof lights. The installation of a roof light to the front is also proposed. The appeal seeks removal of Condition 2 and replacement with a condition specifying the plans that reflect the amendments.
6. The Council considers that the revised dormer window would appear as a visually obtrusive and excessive form of development that would detract from the character and appearance of the host building, the existing terrace and the Brockley Conservation Area.
7. I therefore consider the main issue in this appeal to be whether the proposed amendments would preserve or enhance the character or appearance of the Brockley Conservation Area.

Reasons

8. The application property comprises a four storey, end terraced house located on Manor Avenue. The surrounding area generally encompasses substantial terraced properties located on leafy avenues, where the façades of the properties are often obscured by high, mature trees. The appeal site is situated within the Brockley Conservation Area. The significance of the conservation area largely derives from the historic and aesthetic quality of the Victorian housing and its setting in wide, tree-lined roads, all of which generates a spacious, suburban character.
9. The proposed amendments would include an increase in the projection of the rear lower ground floor extension by 0.8m to 4m in total. The previously approved rooflights within the rear extension would be replaced by two larger

¹ Planning Practice Guidance – Paragraph 013 Reference ID; 17a-013-20140306

- ones which would project around 0.5m from the roof. The two sets of folding doors within the rear extension would be made higher and wider. In addition, a conservation style rooflight is now proposed to the front roof slope.
10. I note the concerns of the occupier at 68 Manor Avenue regarding these works. However, the proposed amendments would only result in a marginal increase in the size of the rear extension and the rooflights therein. In addition, the proposed rooflight to the front would be a relatively unobtrusive addition to the roof slope. Given the height of the property and the gentle pitch of the roof slope, the rooflight would not be widely visible within the street scene.
 11. The Council has raised no concerns with the amendments to the rear extension or the rooflights. On the evidence before me, I have no reason to come to an alternative conclusion. I am satisfied therefore that the amendments referred to above would not harm the character and appearance of the conservation area. Nor would they harm the living conditions of neighbouring residents or indeed the living conditions of the future occupiers of the proposal.
 12. The Council's concerns in this instance relate to the proposed amendments to the rear dormer window. The dormer was reduced in width and had a roof terrace and balustrade omitted upon submission of the previous appeal. The revised dormer was subsequently permitted. The previous Inspector, in allowing the appeal, noted that the scale and design of the dormer would ensure that it would be a subservient element.
 13. The proposed amendment would result in a larger dormer window which would include a balcony with inward opening doors, a glass balustrade and a flat roofed area outside of the balustrade that would cut into the roof slope.
 14. Whilst I note the dormer would be around double the size of that permitted, the width would remain unaltered. The dormer would also be set in from the party wall with the adjoining property and below the ridge of the main roof. Subsequently, a significant proportion of the existing roof slope would remain unaltered. Furthermore, the dormer would be cut into the roof slope, which would reduce its mass. It would also largely utilise materials which would be, in my view, sympathetic to the host dwelling.
 15. Several properties within the area contain dormer windows of differing designs. Moreover, whilst glimpses of the dormer would be achievable from neighbouring gardens, views from public vantage points would be considerably limited. As a result, I am satisfied that the dormer would appear as a subservient element on the rear roof slope and would not appear as visually obtrusive or excessive form of development.
 16. I conclude, therefore, that the proposed amendments would preserve the character and appearance of the Brockley Conservation Area. The proposed amendments would consequently accord with Policies 7.4, 7.6 and 7.8 of the London Plan 2016² which require development to provide high quality architecture and design which has regard to the form, function, and structure of an area and to conserve the significance of heritage assets.
 17. The amendments would also accord with the high quality design and historic environment aims of Policies 15 and 16 of the Core Strategy 2011³ and

² The London Plan: The Spatial Development Strategy for London Consolidated with Alterations Since 2011, 2016

³ Lewisham Local Development Framework Core Strategy Development Plan Document 2011

Policies DM30, DM31 and DM36 of the Development Management Local Plan 2014⁴. The proposal would also accord with the Lewisham Residential Standards Supplementary Planning Document 2006 which requires new development to contribute to the architectural quality of the borough.

Other Matters

18. I note the concerns of neighbours regarding a mature tree within the adjacent garden. However, I have no substantive evidence that it would be affected by the proposed amendments. I therefore afford the matter little weight.

Conditions

19. For the reasons given above, the disputed condition is not necessary in its current form. Nevertheless, I consider it necessary to impose a revised condition relating to the approved plans to provide certainty over the extent of the development permitted. I have, however, omitted reference to drawing ref PLN01 as this depicts the works as approved under the previous permission.
20. The Council suggests that Condition 3 of the original permission should be altered to require detailed plans of the balcony and balustrade to be submitted and agreed. I do not agree that such a requirement would logically need to be attached to Condition 3 as this relates to matching materials. However, I do agree that such a requirement is necessary in order to preserve the character and appearance of the Brockley Conservation Area. I have therefore imposed an additional condition to that effect.
21. The Council suggests that the platform adjacent to the Juliet balcony and the associated balustrade should be restricted from use as a balcony by condition. However, there is no substantive evidence before me that the use of the dormer window and its associated platform area would necessarily be harmful in respect of the living conditions of neighbouring residents or in respect of any other matter. I therefore consider the suggested condition to replace Condition 5 of the original permission, which prevents use of the roof of the rear extension as a balcony, is not necessary. The Council has also suggested a condition that the front roof light shall sit flush with the front roof slope. However, the proposed drawings show that there would be no projection of the roof light from the plane of the roof. I therefore consider that this would be adequately secured through the condition requiring accordance with the approved plans, and the condition as suggested would not be necessary.

Conclusions

22. For the reasons given above, and with regard to all other matters raised, I conclude that condition No 2 imposed on planning permission Ref DC/13/83549 (Appeal Ref APP/C5690/A/13/2208383) is not necessary in its current form. Accordingly, the appeal should be allowed without compliance with the disputed condition, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the new conditions referred to above.

Jason Whitfield

INSPECTOR

⁴ Lewisham Local Development Framework Development Management Local Plan 2014