

Appeal Decision

Site visit made on 13 December 2016

by Mr J P Sargent BA(Hons) MA MRTPI

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

Decision date: 5 January 2017

Appeal Ref: APP/C5690/C/16/3150406 2 Amersham Road, London SE14 6QE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Sajid Ismail against an enforcement notice issued by the Council of the London Borough of Lewisham.
- The notice was issued on 31 March 2016.
- The breach of planning control as alleged in the notice is without planning permission the carrying out of the following:
 - 1) The construction of a single storey rear extension at basement level as shown on Photograph A.
 - 2) The construction of a side extension at first and second floor level as shown on Photograph B.
 - 3) The construction of a mansard roof extension and associated raised side parapet wall as shown on Photograph B and C.
 - 4) The installation of UPVC windows to the front elevation at ground, first and second floor levels as shown on Photograph B.
 - 5) The installation of UPVC windows to the rear elevation at ground, first and second floor levels as shown on Photograph C.
 - 6) The bricking up of 2 window apertures in the rear elevation as shown on Photograph C.
 - 7) The material change of use of the premises from self-contained flat at basement level and maisonette at ground, first and second floors to 5 self-contained flats.
- The requirements of the notice are
 - 1a) Remove the 2 storey side extension at first and second floor levels as shown on Photograph B and
 - 1b) Reinstate the side wall of the building to the state existing prior to the unauthorised development as shown on Photograph D and
 - 1c) Install a timber framed sliding sash window in the side wall of the building at second floor level as shown on Photograph D and
 - 1d) Reinstate the roof of the single storey side extension to its form existing prior to the unauthorised development as shown on Photograph D by
 - i) Reinstating the pitched roof slope
 - ii) Reinstating the concrete interlocking tiles to the pitched roof slope.
 - 2a) Remove the mansard roof extension from the premises as shown on attached Photograph B and Photograph C and
 - 2b) Reinstate the roof to its form existing prior to the unauthorised development by
 - i) Reinstating the double pitched roof slopes
 - ii) Reinstating the valley behind the parapet wall
 - iii) Reinstating slate tiles to the double pitched roof slopes and
 - 2c) Reduce the height of the raised side parapet wall to the height existing prior to the unauthorised development as shown on Photograph E.

- 3a) Remove the UPVC windows from the front elevation of the premises at ground, first and second floor levels as shown on Photograph B.
 - 3b) Install timber framed sliding sash windows to the front elevation of the premises at ground, first and second floor levels as shown on Photograph E.
 - 3c) Remove the UPVC windows from the rear elevation of the premises at ground, first and second floor levels as shown on Photograph C.
 - 3d) Install timber sliding sash windows to the rear elevation of the premises at ground, first and second floor levels.

 - 4) Cease the use of the ground floor of the premises as a self-contained flat

 - 5a) Cease the use of the first floor of the premises as a self-contained flat
 - 5b) Remove the kitchen fixtures and fittings from the first floor

 - 6a) Cease the use of the second floor of the premises as a self-contained flat
 - 6b) Remove the kitchen fixtures and fittings from the second floor

 - 7) Reinststate an internal staircase between the ground floor and second floor of the premises.

 - 8) Make good all damage to the premises resulting from compliance with requirements 2-7 above

 - 9) Remove all materials, debris, waste and equipment resulting from compliance with requirements 2-8 above
- The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Act as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended is also to be considered.
-

Decision

1. The appeal is allowed insofar as it relates to the construction of a single storey rear extension at basement level, the installation of UPVC windows to the front elevation at ground, first and second floor levels, the installation of UPVC windows to the rear elevation at ground, first and second floor levels and the bricking up of 2 window apertures in the rear elevation, and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended, for the construction of a single storey rear extension at basement level, the installation of UPVC windows to the front elevation at ground, first and second floor levels, the installation of UPVC windows to the rear elevation at ground, first and second floor levels and the bricking up of 2 window apertures in the rear elevation at 2 Amersham Road, London SE14 6QE.

2. The appeal is dismissed and the enforcement notice is upheld for the construction of a side extension at first and second floor level, the construction of a mansard roof extension and associated raised side parapet wall and the material change of use of the premises from self-contained flat at basement level and maisonette at ground, first and second floors to 5 self-contained flats, and planning permission is refused on the application deemed to have been made under section 177(5) of the Act as amended for the construction of a side extension at first and second floor level, the construction of a mansard roof extension and associated raised side parapet wall and the material change of use of the premises from self-contained flat at basement level and maisonette at ground, first and second floors to 5 self-contained flats.

Main Issues

3. The main issues in this case are the effect of the works on the character and appearance of the area, and the impact on the living conditions of residents.

Reasons

Character and appearance

4. Along Amersham Road are large buildings that were no doubt originally built as houses of high status. Many though appear to have been converted to flats or similar, and alterations have been undertaken to the properties over time, but despite this the street still maintains some of its original distinctive character.
5. No 2 stands prominently near a busy junction, being the first building on the west side of the street when entering from New Cross Road. It is attached to 4 Amersham Road, and with 6-10 Amersham Road beyond, it forms a short block (the block) up to the junction with Parkfield Road. The building is not listed, and I was not told it was in or near to a conservation area.
6. The first 6 aspects of the stated breach of planning control all relate to building operations, and the impact of each of these on the character and appearance of the area will be examined in turn.

The rear extension

7. This is partly below ground at basement level and is similar in height and scale to others in the block. Its removal or alteration is not required by the notice, and I consider that in this context it causes no visual harm.

The mansard

8. No 2 originally had low-ridged double-pitched roofs behind a parapet wall, but whilst the parapet has remained the roofing has been replaced with a mansard. Mansard roofs have also been formed at 4, 6 and 8 Amersham Road (though the Council said only the one at No 8 was now lawful) while elsewhere in the road other mansard roofs and large dormer windows are apparent.
9. The mansard roof is a departure from what was originally found at No 2 and possibly from the traditional roof pattern in the area. However, it is relatively low and sits behind the parapet, and so to my mind it appears as a subservient element that relates appropriately to the building and is not unduly dominant. Indeed, this view would apply even if the other unauthorised mansard roofs on the adjacent properties were removed.
10. I appreciate that the side parapet of No 2 has been modified, though what is now in place is partly a response to the side extension (discussed below). I have no basis to consider the change to the side wall that would be required for the mansard roof alone would be of a scale or nature that was unacceptably discordant in this location. Similarly while the chimney has been removed, I consider that in itself does not cause undue harm.

The side extension

11. No 2 originally had a large gable wall that was clearly visible when turning into Amersham Road from New Cross Road. However, an extension has been added to this elevation, which contains a staircase to allow access to the upper floors. It has a hipped roof and, although set back from the front of the property it extends to the rear elevation to create a bathroom on each storey.

12. The walls of this extension rise above the front parapet and so it reads as a taller element than the original building. Moreover, the style and profile of the roof and its eaves relate poorly to the property, appreciably modifying its silhouette and making the extension appear as a cumbersome addition. This scale is further highlighted by the limited number of windows to the side and front that mean the extension seems to be unduly solid and bulky, while its incongruous nature is compounded by the use of materials that do not match those on the building particularly well.
13. Taking these factors together, I therefore find this addition has little regard to that of the original property, resulting in it appearing as a discordant feature. As such, given the prominence of this elevation I consider the side extension is poorly informed by its context and detracts unacceptably from the character and appearance of the area.

UPVC windows to front and rear

14. Timber windows have been replaced with UPVC throughout. However, few timber windows remain in the properties along Amersham Road and UPVC windows can be found at No 4, at No 6 and in some of the windows at No 8 and No 10. Noting that this is not a conservation area and given the effect that so many UPVC windows nearby have had on the character of the surroundings, I consider that what has now been installed does not harm the locality.

Bricked-up windows

15. On the rear are 2 bricked up windows that are between floors. As they are off-set when compared to the other windows their loss has little effect on any balance or symmetry the rear elevation might have previously enjoyed, and, taking account of the fact that they are on the back, I consider that bricking them up does not detract unacceptably from the area. In any event their re-opening is not required by the notice.

Conclusions on this issue

16. Accordingly I conclude that of the works before me only the side extension detracts unacceptably from the character and appearance of the area and so conflicts with Policy 15 in the Council's *Core Strategy* and Policies 30 and 31 in the *Development Management Local Plan*.

Living conditions

17. Before the works were undertaken the ground, first and second floors had been used as a single maisonette. Now though they have each been converted to a self-contained 2-bedroomed flat, with a further flat being created in the mansard roof. The Council accepted that the property's basement has a lawful use as a self-contained flat too, although this has been extended by the works in the notice from a 2-bedroomed unit to one with 3 bedrooms. As a result, there are now 5 flats in the building.
18. The *National Planning Policy Framework* (the Framework) states the need to seek a good standard of amenity for all existing residents and future occupiers is a core planning principle, and an important element of this is the provision of units with a suitable floor area.
19. The Council said the flats on the ground floor, first floor, second floor and third floor are each no greater than 48.39m² in area. Indeed the parties accepted they all fall below the floor areas in the Government's *Technical housing standards* (the

THS) and reflected in the Council's adopted standards. Taking this into account, I consider their size means they provide an unacceptable level of accommodation for residents. While they may well be occupied, it does not follow that they are suitable in this regard as there are many other reasons why residents might move in. Moreover, while the Appellant has said these flats could be reduced to single bedroom units they would still fail to comply with the floor space contained in the THS.

20. Although the area of the basement flat is below the stated standards as well, the cessation of its use is not part of the notice. Mindful it can be lawfully used as a self-contained unit, albeit one that is smaller than what is now before me, I consider its standard of accommodation is not a basis to resist this appeal.
21. Accordingly I conclude that the units created on the ground, first, second and third floors provide an unacceptable standard of accommodation below that given in the THS, thereby conflicting with one of the core planning principles in the Framework.

Overall conclusions

22. Under section 177 of the Act as amended I can grant planning permission in whole or in part for the matters in the notice. In this case the harmful effects of the side extension and the creation of 4 new flats mean the appeal should be dismissed insofar as it relates to those elements. However, the appeal should succeed in relation to the installation of UPVC windows to the front and rear as those are distinct and severable from the harmful elements above, and I see no reason for them to be the subject of any conditions.
23. Planning permission should also be granted for the basement extension and the bricked-up windows. These were cited in the breach but not subject of the steps, and so presumably could have been retained under section 173(11) of the Act as amended in any event. Again they are distinct and severable from the aspects I found to be harmful, and I am aware of no conditions that need be imposed on them. However as the mansard is integrally related to the side extension that cannot be granted planning permission.
24. Accordingly I conclude the appeal is dismissed and planning permission refused for the construction of a side extension, the construction of a mansard roof extension and associated raised parapet walls and the material change of use of the premises from self-contained flat at basement level and maisonette at ground, first and second floors to 5 self-contained flats.
25. However, I also conclude that the appeal should be allowed and planning permission should be granted for the construction of a single storey rear extension at basement level, the installation of UPVC windows to the front and rear elevations at ground, first and second floor levels, and the bricking up of 2 window apertures in the rear elevation.

J P Sargent

INSPECTOR