
Appeal Decisions

Site visit made on 20 March 2017

by Simon N Hand MA

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

Decision date: 22 March 2017

Appeal A: APP/L3625/C/16/3153469

Land at 23 East Road, Reigate, Surrey, RH2 9EX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Phillip James Nightingale against an enforcement notice issued by Reigate & Banstead Borough Council.
 - The enforcement notice was issued on 19 May 2016.
 - The breach of planning control as alleged in the notice is the unauthorised erection of a loft conversion, consisting of a rear facing box dormer without planning permission.
 - The requirements of the notice are remove the box dormer in its entirety and restore the roof to its former condition with roof tiles to match the existing tiles.
 - The period for compliance with the requirements is 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/L3625/D/16/3150829

23 East Road, Reigate, Surrey, RH2 9EX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Nightingale against the decision of Reigate & Banstead Borough Council.
 - The application Ref 15/02476/HHOLD, dated 4 November 2015, was refused by notice dated 28 February 2016.
 - The development proposed is 3m ground floor extension to rear of property with vaulted roof and roof lights. Loft conversion to existing roof space with box dormer to rear.
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Decisions

Appeal A - 3153469

1. The appeal is dismissed and the enforcement 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.

Appeal B - 3150892

2. The appeal is dismissed insofar as it relates to loft conversion to existing roof space with box dormer to rear. The appeal is allowed insofar as it relates to 3m ground floor extension to rear of property with vaulted roof and rooflights and planning permission is granted for the rear extension with vaulted roof and rooflights as built at 23 East Road, Reigate, Surrey, RH2 9EX, in accordance

with the terms of the application, Ref 15/02476/HHOLD, dated 4 November 2015.

Background to the Appeals

3. No 23 is a terraced house in a modern development of houses of mixed sizes but with a clearly distinctive overall design. When the estate was built permitted development rights were removed by way of a condition. The reason for this condition was oddly phrased, but I take it to mean it was two-fold, both because the buildings were already at their maximum size for design purposes and to prevent harm to the amenity of neighbours. I saw the gardens were very small and that overdevelopment of the plots could easily be both bad design in its purest sense and also unneighbourly.
4. The appellant argues the condition would fail the tests in the PPG, however, there is nothing new here. The Government has always considered that the decision to remove permitted development rights should not be taken lightly. There is no s73 appeal so the merits of the condition are not before me. However, I would say that from having looked around the estate, which is tightly knit and has a clear design ethos, I can understand why the Council attached the condition.

The Appeal on Ground (a) and the s78 Appeal.

5. The development as a whole comprises a ground floor rear extension with roof lights and a loft conversion with the controversial rear dormer. There is no dispute that the ground floor extension is acceptable and I shall make no more comment on that.
6. The dormer however is massive, ungainly and wholly out of place. It covers the entire rear roof of the house, the slope of which is quite steep giving it large and out of scale dormer cheeks. Its dominance and incongruity is accentuated as it stands in a terrace of similar houses without dormers.
7. The Council noted there was some impact on residential amenity but not sufficient to warrant a refusal alone. I disagree with this. The dormer has floor to ceiling French windows behind a Juliet balcony. Because of the design of the estate with small rear gardens, all are overlooked by neighbours' upstairs windows. However, a second floor French window provides much greater opportunity for overlooking, and by its very design would encourage the occupiers to relax behind the balcony with clear views over a large number of gardens. Even if they were not tempted to actually overlook the neighbours, the sense of being overlooking would be greatly enhanced by the presence of the French-windows and I consider this does harm the amenity of neighbours. However, even had I not concluded this I would have dismissed the appeal on design grounds alone.
8. The appellant argues that the application was only necessary because of the condition and the dormer meets all the permitted development requirements; as a consequence, the dormer cannot harm the dwelling itself. I do not agree with the logic of this argument, it is precisely because of the potential for harm if permitted development rights were exercised in full that the Council attached the condition. In my view the dormer clearly harms the character of the dwelling itself. I noted the rear dormers on the properties in Nutley Road behind the site. This is a road with more traditional dwellings, mostly in

terraces, a number of which have rear dormers, some small and others taking what appears to be full advantage of their permitted development rights. However, the fact that a number of other properties in the area have been harmed aesthetically does not mean the appeal property should also be. Especially as the modern estate was built with obvious design principles which the dormer offends. The fact that the rear dormer is not prominent from public views is also of little weight as it can be clearly seen from a large number of dwellings and gardens.

9. Consequently I find the dormer is contrary to policies Ho9, Ho13 and Ho16 which deal with the character of the area, good design and extensions to existing dwellings. I consider the two parts of the proposal are severable so I shall refuse planning permission for the dormer but allow it for the single storey rear extension. In order to affect this I shall uphold the notice and issue a split decision on the s78 appeal. As the development has already been carried out no conditions are required.

The Appeal on Ground (f)

10. The appellant argues that as there are a number of dormers in the area there can be no objection to a dormer of some sort and so a smaller dormer should be allowed. I am not sure this is the case as the uniformity of the rear roof slopes is an important feature in the estate. In any event, I do not have any plans or specific proposals for a smaller dormer, or any indication what it might look like. Consequently, I cannot vary the requirements to allow one. The appeal on ground (f) fails.

The Appeal on Ground (g)

11. The appellant argues that 4 months is too short as the house is tenanted. The tenants will have to be given notice and then a builder found to carry out the work. However, no reason has been provided as to why the house cannot continue to be occupied while the dormer is removed as this would only affect the loft conversion, and arrangements for occupation would be a matter between the owner and the tenants. Four months seems plenty of time to find a builder and the actual removal of the dormer and replacement of the roof should not take long. The appeal on ground (g) fails.

Simon Hand

Inspector