



Appeal Decision

Site visit made on 6 March 2017

by Susan Wraith DipURP MRTPI

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

Decision date: 07 April 2017

Appeal Ref: APP/Y5420/C/16/3154256

The land and building(s) known as 487 Archway Road, London, N6 4HX

- The appeal is made under s174 of the Town and Country Planning Act 1990 [hereafter "the Act"] as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Alan Corney against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The notice was issued on 20 June 2016.
 - The breach of planning control as alleged in the notice is: Without planning permission the erection of a rear dormer roof extension.
 - The requirement of the notice is: Demolish the rear dormer roof extension.
 - The period for compliance with the requirements is four (4) months.
 - The appeal is proceeding on the grounds set out in s174(2)(a) and (c) of the Act. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under s177(5) of the Act.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld; and planning permission is refused on the application deemed to have been made under s177(5) of the Act.

The appeal on ground (c)

2. An appeal on ground (c) is that the matter alleged does not amount to a breach of planning control. Ground (c) is one of the legal grounds. In a legal ground of appeal the burden of proof is upon the appellant.
 3. It is unclear to me on what basis the appeal on ground (c) is being pursued. The dormer window has already been the subject of a planning application and an appeal against the refusal of planning permission. The previous appeal was dismissed. From what has gone before there seems to be little doubt that the dormer is development and is not "permitted development". Thus the development amounts to a breach of planning control.
 4. Reference has been made to an earlier permission for a dormer window granted in 2007. It is not clear from the limited information I have whether that permission was ever implemented (in whole or part) or whether or not it is still extant. In any event that dormer is described as being of more modest size and not spanning the full width of the property as is the case with the subject dormer. I cannot see that this earlier permission has any bearing upon the legality of the development that is before me in this appeal.
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5. The burden of proof that is upon the appellant has not been satisfactorily discharged. The appeal on ground (c) fails.

The appeal on ground (a) and the deemed application

Planning policies and statutory requirements

6. The development plan policies to which I have been referred comprise Haringey's Local Plan Strategic Policies SP11 and SP12, Haringey Unitary Development Plan Saved Policies CSV5 and UD3 and London Plan Policies 7.4, 7.6 and 7.8. These policies, taken together, seek (amongst other things) to ensure that new development within a conservation area is of high quality design that preserves or enhances the character and appearance of the conservation area.
7. Planning law requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise¹.
8. S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in the exercise of planning powers in conservation areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. It imposes a statutory duty on the decision maker to apply this test when considering development proposals within a conservation area.

Main issue

9. Having regard to the Council's reasons for taking enforcement action, the planning policies, statutory duties and the submissions made by the parties I consider the main issue in this appeal to be the effect of the dormer upon the character and appearance of the Highgate Conservation Area within which the appeal site is located.

Effect upon the character and appearance of the conservation area

10. The conservation area, in the environs of the appeal site, is characterised by a mix of period residences of varied architectural styles. The appeal property is within a terrace of dwellings of quite simple design which, in their own understated way, contribute positively to the character and appearance of the conservation area.
11. The dormer is positioned to the rear facing roof slope and can be seen only in part from the rear garden area. It is, however, more clearly seen from the rear facing windows of properties on North Hill and North Hill Avenue, from neighbouring gardens and in glimpses between properties from the public realm to the rear, albeit there are some intervening trees and boundary features.
12. Whilst there are a few more modest roof conversions and dormers nearby, the appeal dormer is particularly dominant, spanning the full width of the property and positioned only marginally above the eaves and below the ridge. It has a "box like" appearance making the host property appear top heavy, its original roof form, essentially, being lost. The dormer appears as an incongruous feature within the roofscape and detracts from the integrity of the roof of the terrace. Thus the development results in harm to the character and appearance of the conservation area.

¹ S38(1) and (6) of the Planning and Compulsory Purchase Act 2004 and s70(2) of the Town and Country Planning Act 1990.

13. I have considered whether there are any public benefits of the development which would outweigh this harm, bearing in mind that the harm is less than substantial.² There is a benefit to the occupiers of the property in terms of the additional residential accommodation which carries a small amount of weight in the decision. However, the interests of conserving the character and appearance of the conservation area carry greater weight, the conservation area being a designated heritage asset. The balance of the considerations, therefore, is against the development. I am in agreement with the findings of the previous Inspector in this respect.

Other matter

14. Whilst no appeal on ground (f)³ has been made expressly, it has been suggested that by altering the dormer to a mansard form clad in slates the harm could be overcome. However, the roof extension would still span the full width of the property without regard to the original roof form. The proposal does not address my fundamental concerns about the development's size and bulk.

Conclusion on ground (a) and the deemed application

15. The development results in harm to the character and appearance of the conservation area and is contrary to the cited policies of the development plan. There are no considerations which indicate a decision other than in accordance with the development plan. The appeal on ground (a) fails.

Conclusion

16. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Susan Wraith

Inspector

² National policy for conserving or enhancing the historic environment is set out in the National Planning Policy Framework [the Framework]. The Framework advises that where development would lead to harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation.

³ An appeal on ground (f) of s174(2) of the Act is that the steps required by the notice exceed what is necessary to remedy the breach or (as the case may be) to remedy any injury to amenity which has been caused by the breach.