
Appeal Decision

Site visit made on 1 June 2017

by Simon N Hand MA

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

Decision date: 06 June 2017

Appeal Ref: APP/Z0116/C/16/3158658

1 Cranleigh Road, Bristol, BS14 9PL

- 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 Michael Gibbs against an enforcement notice issued by Bristol City Council.
 - The enforcement notice was issued on 12 August 2016.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a rear roof dormer extension.
 - The requirements of the notice are remove the unauthorised rear roof dormer extension from the property.
 - The period for compliance with the requirements is 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (d) and (f) of the Town and Country Planning Act 1990 as amended.
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Decision

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.

Background to the Appeal

2. Due to a restriction on permitted development rights planning permission was required for a rear dormer and this was obtained, on appeal, in 2012. The dormer, had it been built, would have been centrally positioned and would have taken up about half the rear roof slope. In the event the appellant was not able to construct the dormer as approved for reasons that have not been explained although his agent explains the builders had "to make the best of what they could with what they had to work with", and a much larger dormer was constructed, which fills the whole of the rear roof slope.
3. An application to regularise the situation was made in November 2014 and refused in October 2015, no appeal was made because the appellant was made aware he could claim immunity from enforcement due to the passage of time. The enforcement notice was duly issued and this appeal made.

The Appeal on Ground (d)

4. This ground is that it was too late to take enforcement action because 4 years have passed since the dormer was substantially complete. The notice was issued on 12 August 2016, so the appellant needs to be able to show, on the

- balance of probability, that the dormer was completed on or before 12 August 2012.
5. The appellant's evidence is an invoice from a builder, dated 8 August 2012, addressed to "Gibbs and Tregidgo", and is for materials and labour to render a dormer. I do not know who "Gibbs and Tregidgo" are, and their address is not the appellant's home address, but I assume they are company operated by the appellant. There is nothing in the invoice to suggest the dormer was at Cranleigh Road as far as I know Gibbs and Tregidgo could be responsible for any number of houses with dormers, so I can give this evidence little weight.
 6. The appellant's agent also states that the tenant of the dwelling, Claire Wools remembers having to move out of the dwelling during the works and moved back in, in early August, as this was the date of her children's school holiday. However, I have nothing in writing from Claire Wools herself so that reduces the weight I can give to this observation and nor does it suggest the dormer was substantially completed at that time.
 7. On the other hand I have an aerial photograph from the Council, dated 22 July 2012 which shows the dwelling with no dormer and no sign of work being about to commence. As the Council say it is very unlikely the works for the dormer could have been completed in the 17 days between the photograph being taken and the builder's invoice. They also supply a Google Maps photograph, dated September 2012 which shows the gable end of the dwelling with no dormer, and a very similar one dated November 2015 which clearly shows the completed dormer. It seems quite clear therefore the dormer was not completed until after September 2012.
 8. I agree with the Council that, given the above evidence, on the balance of probability the dormer was not substantially complete on the 12 August 2012 and the appeal on ground (d) fails.

The Appeal on Ground (a)

9. This issue was considered by the Inspector in the 2012 appeal. He clearly felt that because "well over half of the rear roof plane" would remain undeveloped the "degree of subservience to the main roof form would be sufficient" to avoid harm to the character and appearance of the area. I agree with this analysis, the dormer fills the entire rear roof slope and dominates and unbalances what would otherwise be a modest dwelling. The result is an incongruous and excessively large addition to the dwelling. As far as I am aware nothing has changed since the previous appeal except for the NPPF which supports good design and the Council have adopted the Bristol Site Allocations and Development Management Policies document in 2014. Policy DM26 seeks to protect local character and the dormer is contrary to that policy.
10. The appellant argues that the current tenant lives close to her parents and needs the extra space for her children, without which she would have to move. While I have every sympathy with her, she was resident when the approved dormer was planned and presumably that was sufficient for her needs. If they have now changed then there is no suggestion she would not be able to rent somewhere else, possibly nearby. Therefore the tenant's needs do not outweigh the harm caused by the dormer. The appeal on ground (a) fails.

The Appeal on Ground (f)

11. The appeal on ground (f) is that the requirements should be to revert to the approved dormer, rather than remove the whole dormer. I agree with the Council that the original permission was never implemented and so has now expired due to the passage of time. Nevertheless, as noted above, little has changed since the original appeal decision so there is no reason why a new planning permission should not again be granted for the small dormer. However, the appellant suggests the small dormer could not actually have been built he says "at the point where the roof had been removed it became clear that there was a problem with the approved plan". Consequently, it seems to me the approved dormer could not be built and so does not provide a reasonable fallback. As the Council say should an application be made for a smaller dormer that could be built, the fact that one had been allowed on appeal would be a material consideration, depending, I assume, on the proposed new design. The appellant has 4 months to remove the dormer, but if he is close to agreeing a solution with the Council they have the powers to delay enforcing the notice accordingly. The appeal on ground (f) fails.

Simon Hand

Inspector