
Appeal Decision

Site visit made on 19 June 2017

by Gloria McFarlane LLB(Hons) BA(Hons) Solicitor (Non-practising)

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

Decision date: 29 June 2017

Appeal Ref: APP/Q5300/C/17/3173807

44 Castle Road, Enfield, EN3 5HP

- 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 Husein Ramadan against an enforcement notice issued by the Council of the London Borough of Enfield.
- The enforcement notice, numbered ENF/16/0344, was issued on 21 March 2017.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised erection of a rear dormer window (outlined in blue on the plan attached to the notice for identification purposes).
- The requirements of the notice are:
 1. Remove the rear dormer window (outlined in blue on the plan for identification purposes).
 2. Make good the roof in form and materials to match original.
 3. Remove all resulting materials from the premises.
- The period for compliance with the requirements is two 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.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Procedural matters

1. In his grounds of appeal¹ the Appellant refers to a 'possible application for a cost award' and said that he was prepared to submit a planning application for retention of part of the unauthorised existing dormer. He therefore considered there was time for the Council to withdraw the notice and resolve the matter through that process rather than the appeal process. He said that he retained the right to make an application for such an award 'if it is found that the LA behaves unreasonably and causes him wasted expense'.
2. The Council has not withdrawn the notice and, so far as I am aware no planning application has been submitted. Although the Appellant submitted a further statement² and final comments³ no further mention was made of any application for costs and in these circumstances I consider that none was made.

¹ Dated 13 April 2017

² On 9 May 2017

³ On 12 June 2017

The appeal on ground (a) and the deemed planning application

3. An appeal on ground (a) and the deemed planning application are on the basis that the Appellant is seeking a grant of planning permission for the matters stated in the notice to be a breach of planning control. In this case that is the rear dormer window that has been erected and which currently exists at the property.
4. From the reasons for issuing the notice I consider that the main issue is the effect of the dormer window on the character and appearance of the host property, the street scene and the surrounding area.
5. The appeal property comprises a modest two-storey, detached dwellinghouse located on the corner of Castle Road and Park Terrace. The dwelling is not typical of the surrounding area which is made up predominantly of terraced houses. No 44 has a high pitched gable ended roof fronting Park Terrace and it has a ridge line higher than the row of terraces to the east.
6. The Appellant appears to have misunderstood the terms of a ground (a) appeal and the deemed planning application because in his grounds of appeal he asks for 'planning permission to be granted for retention of part of the dormer over the stairs with a condition that the remaining of the dormer windows are removed and the original roof is re-inserted'⁴. I have no powers under this ground of appeal or in the deemed planning application to grant such a permission.
7. The planning history of the appeal site indicates that the Appellant sought the removal of a planning condition which removed permitted development rights from the appeal property⁵; this application was refused and the subsequent appeal was dismissed⁶. The Inspector commented at that time that 'The reason for imposing the condition remains valid. This is evidenced by the unauthorised roof dormer that has been erected. When seen alongside the lower terraced house at No 8 Park Terrace it appears as an intrusive and top heavy feature which is seriously harmful to the street scene'⁷.
8. A further application was made for 'a loft conversion with rear dormer and three roof lights at roof slope'⁸ which was also refused and subsequently dismissed on appeal (the second appeal)⁹. The Inspector in that appeal commented that 'Although reduced in scale in comparison with the existing dormer and despite being set in from the sides of the roof, the proposed dormer would still cover much of the roof plane and sit above the ridge of neighbouring 8 Park Terrace. It would be seen as an unduly large and bulky addition that would dominate the roof and overwhelm the appearance of the host property. It would also appear intrusive in the surrounding area and stand out as an unsympathetic addition and obtrusive feature in the street scene'¹⁰.
9. The current dormer extension has therefore been considered reasonably recently by two Inspectors who reached the same conclusions on the same

⁴ Paragraph 4.1 of the Appellant's grounds of appeal

⁵ Ref: 14/03198/VAR

⁶ APP/Q5300/W/15/3002240

⁷ Paragraph 3 of the decision

⁸ Ref: 14/03195/HOU

⁹ APP/Q5300/D/16/3150457

¹⁰ Paragraph 7 of the decision

main issue as in this appeal and there has been no change in circumstances or policy. I have no reason to find otherwise and I therefore conclude that the rear dormer window that has been erected at 44 Castle Road has a harmful effect on the character and appearance of the host property, the street scene and the surrounding area and that it is contrary to Policies 7.4 and 7.6 of the London Plan; Policy CP30 of the Council's Core Strategy; and Policies DMD13 and DMD37 of the Council's Development Management Document which seek, among other things, to achieve high quality and design led development that is appropriate to its context and has regard to its surroundings.

10. The ground (a) appeal fails and the deemed planning application is refused.

The appeal on ground (f)

11. In an appeal on ground (f) the Appellant is saying that the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control. The Appellant believes that any injury to amenity which has been caused by the breach of planning control can be remedied by removal of parts of the offending dormer and the retention of only the part over the stairs which provides access from the first floor to the loft space. It is his opinion that that part of the structure is not visible from the public domain or from adjoining properties and would not cause any harm to anyone.
12. I have to consider any reasonable alternative, and the Appellant has provided plans showing the proposal¹¹. These plans show a smaller dormer but I note that it would still be a dominant addition to the roof slope that would be visible from the surrounding area and its height would be the same as the current dormer. I have not seen the plans that were considered in the second appeal but I note that a proposal for smaller dormer was dismissed in that appeal.
13. The purpose of the requirements is to remedy the breach by restoring the land to its condition before the breach took place¹². Although the proposed dormer would be smaller it would not fulfil the statutory purpose which can only be achieved by the removal of the rear dormer window as stated on the notice.
14. The appeal on ground (f) fails.

The appeal on ground (g)

15. An appeal on ground (g) is on the basis that the time specified in the notice for compliance falls short of what should reasonably be allowed.
16. The Appellant's case is that the removal of the rear dormer window would involve extensive building works which in turn would necessitate the vacation of the premises by the current tenants /occupants; and they would not be able to return because the removal of the dormer would render the loft space unsuitable for habitation. The Appellant asserts that any eviction process will require notice of a minimum of two months to vacate the premises and any subsequent legal process could lead to a minimum of four months, possibly up to six months.
17. The Appellant has not provided any details of the timing of any tenancy agreement and when it may expire. The time period in a notice refers to the time required to complete the steps set out in the notice. The works required

¹¹ Drawings Nos 44CR-E01; 44CR-E02; 44CR-P01; and 44CR-P02

¹² S.173(4) of the 1990 Act

are not extensive and I consider that the period of two months is a reasonable period in which to undertake them. However, I am mindful that there are tenants and I remind the Council of its powers in s.173A(1) of the 1990 Act to extend the period for compliance should it be necessary to do so.

18. The appeal on ground (g) fails.

Conclusions

19. For the reasons given above, and taking all other matters into account, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Decision

20. 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.

Gloria McFarlane

Inspector