
Appeal Decisions

Site visit made on 27 February 2018

by Nigel Burrows BA MRTPI

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

Decision date: 19 April 2018

Appeal Refs: APP/U5930/C/17/3180231 & 3180232 343 Capworth Street, London, E10 7BA

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr John Zhang & Dr Yanlan Mao against an enforcement notice issued by the Council of the London Borough of Waltham Forest.
- The enforcement notice ref: 070983, was issued on 15 June 2017.
- The breach of planning control as alleged in the notice is the construction of a dormer to the rear roof slope.
- The requirements of the notice are :-
 1. Reduce the rear dormer to accord with all requirements of the Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2, Part 1, Class B or;
 2. Demolish the rear dormer in its entirety and reinstate the original roof of the property;
 3. Remove all resulting materials, rubble and general detritus from the site following compliance with requirements 1 or 2 resulting from the works.
- The period for compliance with the requirements is 6 months.
- The appeals are 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 Decisions: The appeals are dismissed and the enforcement notice is upheld with a variation

Background

1. The appeal property forms part of a short block of two-storey terraced houses located on the southeast side of Capworth Street, within a predominately residential area of Waltham Forest. The area is characterised by a uniform pattern of similar terraced housing.
2. The enforcement notice is directed at a dormer on the rear roof slope of the property. It appears to be common ground between the parties that it is not 'permitted development' under the provisions of Class B, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended - which deals with the enlargement of a dwellinghouse consisting of an addition or alteration to its roof.¹

The ground (a) appeals

3. The main issue under the ground (a) appeals is the effect of the dormer extension upon the character and appearance of the host property and the surrounding area.
4. I observed the size, bulk and box-like profile of the dormer pays little regard to the character and appearance of the host building. The structure has also obscured the majority of the original rear roof slope of the host building. I consider that it significantly

¹ The Council's stance is the dormer extension is not set back 0.2m from the eaves, as required by Class B, condition B.2 (b) (i) (bb). This is not disputed by the appellant.

harms the architectural composition of the property. The adverse visual impact of the dormer is exacerbated by the use of grey, slate-like cladding on its cheeks, which accentuates its box-like appearance.² The impression is of a discordant additional storey on the rear elevation which disrupts the form and overall rhythm of the terrace at roof level.

5. The appellants suggest there are no direct views of the dormer from the windows of the immediate neighbours' properties. Nonetheless, the discordant impact of the structure is likely to be readily apparent from the gardens of the adjacent properties and in more distant views from the housing in the wider vicinity. I observed the adverse impact of the structure is also noticeable in the vistas available from the northern end of Sunnyside Road.
6. The appellants have drawn my attention to a variety of dormers that exist upon other properties within this locality. I saw a number of these during my visit, including a similar dormer upon one of the other properties within the same terrace. However, I have no information concerning their planning status. In any event, given the poor design and intrusive nature of some of these structures, they are not good examples to follow.
7. I conclude the dormer attacked by the notice conflicts with the relevant development plan policies cited by the Council, including CS15 of its Core Strategy (2012) and DM 4 and DM 29 of its Development Management Policies Local Plan (2013), insofar as they seek to ensure that new development incorporates a high standard of urban and architectural design, that residential extensions and alterations relate to the original host building and that proposals reinforce and/or enhance local character and distinctiveness.
8. In the context of the ground (f) appeal, the appellants state: "... *the previous original eaves only overhung the wall surface by the depth of the rainwater gutter. As such, a lesser step to take maybe that a small eaves constructed in traditional details, of the same depth, is reinstated retrospectively as a shallow addition over the dormer where it meets the brick wall below.*" However, it is not obvious to me that this suggestion would overcome the objections to the dormer that I have identified - including its adverse impact on the architectural composition of the property and its disruptive effect upon the form and rhythm of the terrace at roof level.
9. As matters stand, I consider there is no 'obvious alternative' that would overcome the objections to this dormer, or which would make it acceptable in planning terms. I also conclude these objections could not be overcome by the imposition of planning conditions.
10. I have noted the appellants' comments about the poor condition of the original eaves. However, there are other ways to address this concern which are not dependent upon the provision of a dormer which detracts from the property and the terrace as a whole. I have also taken into account the appellants' aspiration to provide additional space for their family. However, I find this consideration is outweighed by the adverse impact of the dormer.
11. The Council's concern to protect the built environment of the Borough is generally consistent with the Government's objectives for the planning system. Paragraph 14 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development. The economic, social and environmental dimensions of sustainable development should be addressed. Paragraph 9 also makes it clear that pursuing sustainable development includes seeking positive improvements in the quality of the environment. I consider the development conflicts with this objective.
12. In view of my findings on the main issue in this case, I have concluded that the ground (a) appeals and the deemed planning applications should not succeed.

The appeals on ground (f)

13. The issue under the ground (f) appeals is whether the steps required by the enforcement notice exceed what is necessary to remedy the breach of planning control, or, as the case may be, to remedy any injury to amenity caused by the development.

² Especially when seen in the context of the red/brown tiled roofs of neighbouring properties

14. The manner in which the Council has prepared the enforcement notice against the development, including the formulation of its requirements, indicates that its main purpose is to remedy the breach of planning control in accordance with section 173(4)(a) of the Act. The Council has given the appellants the option of reducing the structure so that it accords with the relevant 'permitted development' limitations or demolishing it.
15. The appellants' main arguments under ground (f) have already been outlined in my consideration of the ground (a) appeals. In any event, taking into account the purpose of the notice, it is not obvious to me that the 'lesser steps' suggested by the appellants would remedy the breach of planning control in this case or satisfy the purpose in section 173(4)(a). I consider the requirements of the notice are not unduly onerous or excessive.
16. In the circumstances, I have concluded that the ground (f) appeals should not succeed.

The appeals on ground (g)

17. The appellants consider the 6-month period given by the Council to comply with the notice is too short and suggest that a period of at least 60 months should be given.
18. The appellants state they moved in to the area and carried out works to the property prior to their occupation '*... with the aim of staying for the long term and growing our family*'. The appellants indicate they have invested all of their savings into the property and they do not have the finances to carry out any construction work in the near future. The appellants also refer to the potentially disruptive effect of carrying out remedial works.
19. Be that as it may, a compliance period of 60 months would blunt the urgency and purpose of the enforcement notice. I do not consider the circumstances outlined by the appellants are so exceptional that they warrant such an extensive increase in the period for compliance. In my view it should be possible to physically carry out the works required by the notice within a period of 6 months. However, in order to mitigate some of the potential disruption or hardship which might be experienced by the appellants, on balance, I consider that a compliance period of 12 months would be a more proportionate and reasonable response to the breach of planning control. I shall vary the compliance period accordingly.
20. If the appellants encounter any unforeseen difficulties, then section 173A(1)(b) of the 1990 Act enables the Council to extend the period for compliance at its discretion.

Overall Conclusions

21. For the reasons given above, I conclude the deemed planning applications arising from the ground (a) appeals should be refused and the enforcement notice should be upheld, albeit with a variation to the period for compliance. I have taken into account all the other matters raised in the written representations, including the support for the development from a neighbouring resident. However, I find these matters do not alter or outweigh the main considerations that have led to my decisions upon these appeals.

Formal Decisions

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22. The enforcement notice is varied by the deletion of '*6 months*' and the substitution of '*12 months*' as the period for compliance with the notice.
23. Subject to this variation the appeals are dismissed, the enforcement notice is upheld, and planning permission is refused on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

Nigel Burrows

INSPECTOR