
Appeal Decision

Site visit made on 21 March 2018

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 May 2018

Appeal Ref: APP/N5090/C/17/3181275

Land at 75 Princes Park Avenue, London NW11 0JS

- 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 Leo Kaufman of Redcourt Ltd against an enforcement notice issued by the Council of the London Borough of Barnet.
- The enforcement notice was issued on 27 June 2017.
- The breach of planning control as alleged in the notice is: without planning permission the construction of a 2 storey side extension, full width rear dormer and 2 storey rear extension.
- The requirements of the notice are either:
 - i) demolish the 2 storey side extension, rear dormer and 2 storey rear extension; or
 - ii) alter the extensions so that they match plan No PPA.75.PR.112 of approved application 15/6481/HSE.
- The period for compliance with the requirements is: 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed subject to the enforcement notice being corrected in the terms set out below in the Formal Decision.

Application for costs

1. An application for costs was made by Mr Leo Kaufman of Redcourt Ltd against the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

Preliminary Matters

2. The second alternative requirement of the notice quotes an incorrect reference number for the planning permission that has been previously approved on the site. The plan referred to was approved under planning permission 15/04681/HSE which is the correct reference number. I am satisfied that this defect in the notice can be corrected using the powers available to me by reason of s176(1)(a) without causing injustice.
3. The planning permission referred to above was for a 2 storey side extension, rear dormer, 2 storey rear extension and front bay window to the side extension. As set out by the Council, the differences of what has been built from the approved development are at first floor the rear extension extends slightly further out than shown on the plans; the rear extension has a flat rather than pitched roof; the dormer is wider than shown with a different

window arrangement; and the rear extension has a different window arrangement than approved. The Council's concerns relate to the size scale and design of the dormer and rear extension in comparison with what was previously approved.

The appeal on ground (a)

Main Issues

4. The effect of the dormer and rear extension upon the character and appearance of the building and the surrounding area.

Reasons

5. The appeal site is a large semi-detached dwelling within a primarily residential area that generally has a spacious layout including similarly proportioned dwellings. The development has involved substantial extensions at the rear of No 75 including the large rear dormer as well as the single and 2 storey flat roofed extensions.
6. The large flat roofed dormer sits high on the property but with a degree of separation from the similar structure at the adjoining neighbouring property at No 73. The original roof of the property is still evident. The lower flat roofed extensions dominate the rear elevation of the dwelling but have a clean, simple contemporary appearance. The developments can be seen from the adjoining properties on either side although are not visible from the road. I also viewed the site from No 79 Woodlands Road from where the rear dormer is the main obvious alteration that can be seen.
7. Many of the dwellings within Princes Park Avenue have been the subject of significant alterations. This has included large roof additions which are visible both from the public realm as well as from neighbouring dwellings and gardens. When in the rear garden of the property I could see many of the other properties that have been altered and have contributed to a varied roof-scape in the area. Both of the adjoining dwellings have been subject to substantial alterations. The letters of support from surrounding residents have also referred to this context.
8. Local Plan¹ (LP) Policy DM01, expects developments to preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings. There is a lack of an identifiable overriding character at the rear of the surrounding dwellings with the various extensions and alterations providing an eclectic mix of styles. The Council's Residential Design Guide (RDG) advises that respecting local character does not necessarily mean replicating it and great care should be taken when incorporating contemporary design into the existing urban fabric.
9. The modern additions in this case are seen in the context of the varied local characteristics of the surrounding area. In this setting these developments have not negatively influenced the visual qualities of the area and do not impact upon its spacious qualities. They respond to the local building forms, respecting the scale, massing and height of the surrounding physical context. There is a question raised over the lawfulness of the nearby extensions at No

¹ Barnet's Local Plan, Development Management Policies, Development Plan Document, adopted September 2012

77 but that individual property is only a small part of this overall varied context of building styles.

10. No conditions have been suggested by the Council. However, the previous planning permission (15/04681/HSE) included conditions preventing the use of the flat roofs as terraces and also another condition to prevent the insertion of windows and doors above ground floor level. I consider that similar conditions are necessary in this case to prevent an unreasonable loss of privacy for adjoining occupiers.
11. In conclusion on the main issue, the appearance, scale, mass and height of the dormer and rear extension do not have a harmful impact, preserving the character and appearance of the building and the surrounding area. This complies with LP Policy DM01 and the RDG as well as the advice within paragraph 56 of the National Planning Policy Framework to attach great importance to the design of the built environment. The development differs from the previously approved plans but I consider that it is acceptable without relying upon that scheme as a fallback development. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (g) does not therefore need to be considered.

Formal Decision

12. It is directed that the enforcement notice be corrected: by deletion of the words of the second alternative requirement "alter the extensions so that they match plan No PPA.75.PR.112 of approved application 15/6481/HSE" and their substitution with the words "alter the extensions so that they match plan No PPA.75.PR.112 of planning permission 15/04681/HSE".
13. Subject to these corrections the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the construction of a 2 storey side extension, full width rear dormer and 2 storey rear extensions on the land at 75 Princes Park Avenue, London NW11 0JS, subject to the following conditions:
 - 1) The roofs of the extensions hereby permitted shall only be used in connection with the repair and maintenance of the building and shall at no time be converted to or used as a balcony, roof garden or similar amenity or sitting out area.
 - 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows or doors, other than those expressly authorised by this permission, shall be placed at any time in the side elevations, of the extension hereby approved.

A Harwood

INSPECTOR