
Appeal Decisions

Site visit made on 17 July 2018

by **B.S.Rogers BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 July 2018

Appeal A Ref: APP/Q4625/C/17/3181473 218 Longmore Road, Shirley, Solihull, B90 3EU

- 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 Jonathan Williams against an enforcement notice issued by Solihull Metropolitan Borough Council.
- The enforcement notice was issued on 30 June 2017.
- The breach of planning control as alleged in the notice is without planning permission the carrying out of roof alterations and additions comprising the erection of hip-to-gable extension, with two dormers to the rear elevation and one dormer to the front elevation.
- The requirements of the notice are (in brief) either 1. Remove the front and rear dormers and restore the roof to the same condition as before the unauthorised works were carried out; the hip-to-gable extension need not be removed; and 2. Remove all materials arising from step 1. from the property; OR 3. Remove the front and rear dormers and carry out the scheme approved under ref.PL/2016/00660/MINFHO; and 4. Remove all materials arising from step 3. From the property.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) & (g) of the Town and Country Planning Act 1990 as amended.

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

Appeal B Ref: APP/Q4625/W/17/3179570 218 Longmore Road, Shirley, Solihull, B90 3EU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Jonathan Williams against the decision of Solihull Metropolitan Borough Council.
- The application Ref: PL/2016/02865/MINFHO, dated 11 November 2016, was refused by notice dated 13 April 2017.
- The development proposed is a loft conversion containing 2 rear dormers and 1 front dormer.

Summary of Decision: The appeal succeeds in part only. A split decision is issued.

Background

1. The appeal property is a semi-detached house fronting Longmore Road adjacent to its junction with Bellamy Farm Road. Following the grant of planning permission in 2008 (LPA ref: PL/2008/00780/ FULL), and prior to the appellant's purchase of the property, a 2 storey side extension with a hipped roof was added. In 2016, planning permission was granted for a hip-to-gable extension and to add 4 no. double-pitched roof dormers to the rear roof slope

and 1 no. double-pitched roof dormer to the front roof slope (LPA ref: PL/2016/00660/ MINFO).

2. On implementing the 2016 permission, it appears that the appellant was alerted by his builder to a problem regarding the lack of headroom provided by the approved, pitched roof dormers and, in turn, he alerted his architect. No evidence has been put before me as to exactly what were the alleged shortcomings in the approved drawings. Nor is it clear whether a Building Regulations application was made to the Council or whether the ongoing building operations were inspected by the Council for this purpose. In the event, without the authorisation of the Local Planning Authority (LPA), the approved dormers were replaced by the 2 flat roofed dormers on the rear elevation and a single flat roofed dormer on the front elevation. An application for this development was made retrospectively and the refusal of this application is the subject of Appeal B.
3. It is noted that the enforcement notice does not seek the removal of the hip-to-gable extension and that it is only the dormers that are at issue in both appeals.

Ground (c) of Appeal A

4. The appellant contends that either one or both dormers on the rear elevation should be considered as permitted development under the terms of Class B of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 [GPDO]. The Council accepts that the dormers comply with all the relevant criteria, save for part B.1(d) which states that development is not permitted if the cubic content of the resulting roof space would extend the cubic content of the original roof space by more than 50 cubic metres (in the case of a semi-detached house such as this). Part B3 indicates that, for the purposes of Class B, "resulting roof space" means the roof space as enlarged, taking into account any enlargement to the original roof space, whether permitted by this Class or not.
5. The Council's uncontested measurements indicate that the 2 storey extension granted planning permission in 2008 extended the roof by some 29.8 cubic metres. The recent development added a hip-to-dormer extension (10.4 cubic metres), two rear dormers (8.9 and 12.1 cubic metres) and a front dormer (8.9 cubic metres). Together, this amounts to some 70.1 cubic metres, significantly above the permitted limit. As it appears that the recent development was carried out as a single building operation, the permitted limit was exceeded on the substantial completion of the development as a whole. There was no point at which either or both of the rear dormers could have been said to have been substantially completed in isolation from the other concurrent development. The appeal on ground (c) therefore fails.

Ground (a) of Appeal A, and Appeal B

6. The main issue in both appeals is the impact of the dormers on the character and appearance of the street scene.
7. Policy P15 of the Solihull Local Plan (2013) seeks to achieve good quality, inclusive and sustainable design. This includes the conservation, enhancement of local character, distinctiveness and streetscape quality, matter which are consistent with the National Planning Policy Framework. The Council's

Supplementary Planning Document (SPD), 'House Extension Guidelines', includes advice in relation to dormer windows.

8. The appeal site is within a predominantly residential area, in which is found a wide variety of dwelling types and styles. The appeal property is a mature, semi-detached house that sits comfortably in its surroundings, with 3 elevations visible from the Longmore Road frontage and Bellamy Farm Road to the side and rear.
9. Turning first to the rear dormers, I note that, but for the additional volume of the 2008 and 2016 roof extensions, the larger of the two dormers would have been permitted development. As such, development of this type and design might normally be expected to occur in a residential area. Indeed, although not common, I saw examples of such development in the surrounding area during my site visit.
10. In the present case, although located on the rear elevation, the dormers are clearly visible from the adjoining cul-de-sac, Bellamy Farm Road. In terms of the SPD advice, these are undoubtedly 'large box dormers'. However, they sit on a large roof plane, a significant distance away from the ridge, the eaves and the gable end. Their modestly sized fenestration respects the alignment of the fenestration on the lower floors and they are faced in tiles to match the main roof, thereby diminishing their prominence when viewed from Bellamy Farm Road.
11. Whilst less visually pleasing than the approved dormers, I find the rear dormers to be tolerable in this context. I have given limited weight to the fact that the appellant appears from correspondence with his professional advisors to have believed the work was authorised. I also note the benefits of providing bedroom accommodation for his 5 children and have taken account of the significant cost of reverting to the approved scheme. Therefore, I find the limited conflict with the aims of the development plan to be outweighed by the above material considerations in this case.
12. The front dormer would not have been permitted development, irrespective of the previous roof extensions. It is a box dormer, similar in design and materials to those on the rear elevation. However, it is positioned very close to the eaves such that it appears to rise from the front main wall. Moreover, its size and design clash strongly with the principal feature of the front elevation of this dwelling, the projecting gable with its timber frame decoration. As such it detracts from the appearance of this dwelling and the adjoining semi-detached dwelling, and in turn harms the character and appearance of the street scene.
13. I note that, from some angles, the visual impact is mitigated to some degree by the projecting gable and by the nearby Yew tree located in the footway. However, this is a very busy road and the property is therefore seen by large numbers of people. I have also taken account of the alleged impracticality of the approved front dormer but can give this matter very little weight as it is not substantiated in any way. Even if demonstrated to be impractical, for example by the provision of sectional drawings, I believe that a more appropriate design could have been formulated, had it been discussed in advance with the LPA.

14. On balance, I find the unacceptable visual harm arising from the front dormer, in conflict with the development plan, to outweigh the other material considerations.
15. Accordingly, the appeals are successful in relation to the rear dormers but fail in relation to the front dormer.

Ground (f) of Appeal A

16. In the light of my conclusions above, I shall vary the requirement of the notice such that only the front dormer need be removed or, as an alternative, replaced by that permitted by the 2016 permission.

Ground (g) of Appeal A

17. As there is likely to be a need for discussions to take place with the LPA regarding an alternative design of front dormer, followed by the likely determination of a fresh application and time allowed for financing and constructing an alternative scheme, I consider that an extended period of 12 months should be allowed for compliance.

Formal Decisions

Appeal A

18. The enforcement notice is varied by:-
 - i.) replacing 5(1) with "Dismantle, demolish and/or take down the front dormer as shown hatched red on the two Plans 2(a) and 2(c) attached to this notice and restore the roof to the same condition with the same tiles and guttering before the unauthorised works were carried out except it is not necessary for the hip-to-gable extension work as shown on Plan Numbered 2(a) to be removed; and"
 - ii.) replacing 5(3) with "Dismantle, demolish and/or take down the front dormer as shown hatched red on the two Plans 2(a) and 2(c) attached to this notice and carry out the front dormer part of the scheme approved under planning reference PL/2016/00660/MINFHO, as shown on the attached plans 3(a) and 3(c)."

Subject to these variations, 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.

Appeal B

19. The appeal is dismissed insofar as it relates to the front dormer, facing Longmore Road. The appeal is allowed insofar as it relates to the 2 rear dormers and planning permission is granted for a loft conversion containing 2 rear dormers at 218 Longmore Road, Shirley, Solihull, B90 3EU in accordance with the terms of the application, Ref: PL/2016/02865/MINFHO, dated 11 November 2016, and the plans submitted with it, so far as relevant to that part of the development hereby permitted.

B.S. Rogers

Inspector