
Appeal Decisions

Site visit made on 22 August 2018

by Susan Wraith Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2018

Appeal A - Ref: APP/L5810/C/17/3179485

Appeal B - Ref: APP/L5810/C/17/3179486

The land at 23 Station Road Teddington TW11 9AA

- The appeals are made under s174 of the Town and Country Planning Act 1990 [hereafter "the Act"] as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Ravi Lobo (Appeal A) and Mrs Leonie Lobo (Appeal B) against an enforcement notice issued by the Council of the London Borough of Richmond Upon Thames.
- The notice ref. 15/0159/EN/UBW was issued on 12th June 2017.
- The breach of planning control as alleged in the notice is: Without planning permission and within the past 4 years the raising of the main roof ridge line and the erection of an L-shape rear dormer extension.
- The requirements of the notice are:
 - Either:
 - i. Remove the L-shape dormer and reduce the height of the roof ridge line and return the property to its former condition.
 - Or:
 - ii. Make amendments to the rear dormer and roof ridge in order to fully comply with Class B, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended); and
 - iii. Remove from the Land all surplus materials and debris arising for the compliance with steps 5(i) or 5(ii) above.
- The period for compliance with the requirements is four calendar months.
- Appeal A is proceeding on the grounds set out in section 174(2) (b), (c) and (f) of the Act. Since the prescribed fees have not been paid within the specified period for Appeal A, the appeal on ground (a) and the application for planning permission deemed to have been made under s177(5) of the Act has lapsed.
- Appeal B is proceeding on the grounds set out in s174(2) (a), (b), (c) and (f) of the Act. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under s177(5) of the Act.

Decisions

1. It is directed that the enforcement notice be corrected, in paragraph 3, by the deletion of "and within the past 4 years".

Appeal A - Ref: APP/L5810/C/17/3179485

2. Subject to the above correction, the appeal is dismissed on grounds (b) and (c). I take no further action in respect of the appeal on ground (f).

Appeal B - Ref: APP/L5810/C/17/3179486

3. Subject to the above correction the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under s177(5) of the Act for the development already carried out, namely the raising of the main roof ridge line and the erection of an L-shape rear dormer extension on the land at 23 Station Road, Teddington TW11 9AA.

Preliminary matters

4. The site visit had been arranged on an accompanied basis although the Council's representative was not in attendance¹. The appellant provided access for me and I undertook the visit unaccompanied. I am satisfied that I have sufficient information to proceed.
5. The description of the allegation (at paragraph 3 of the notice) should focus upon the act of development concerned. The phrase "and within the past 4 years" (which simply adds unnecessary description) is superfluous². In order to improve clarity for the terms of the deemed application and the various grounds of appeal I shall correct the notice under the powers of s176(1)(a) of the Act by deleting this phrase. I am satisfied that no injustice will arise to either of the main parties in me so doing.
6. In July 2018 Government published its revised National Planning Policy Framework [hereafter "the Framework"]. The parties have been given an opportunity to comment on the implications for their case.

Appeals A and B - the appeals on ground (b)

7. An appeal on ground (b) is that the matter alleged has not occurred as a matter of fact. Reference is made to the cubic volume of the development. It is not, however, disputed that the main roof ridge line has been raised and that an L-shaped dormer has been erected as a matter of fact.
8. The appeals on ground (b) fail.

Appeals A and B - the appeals on ground (c)

9. An appeal on ground (c) is that the matter alleged does not amount to a breach of planning control.
10. I have considered whether the development could have been permitted development under Class B to Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) [hereafter "Class B"]. The appellant has explained that the ridge was raised as part of the insulation works, the method used being to place the insulation on top of the existing structure. Even though this may have been the preferred method for Building Regulations purposes such works would have exceeded limitation B.1(b) to Class B.
11. The appellant says that the original property had no eaves. However, there must have been a point where the rear roof slope to the main roof met the

¹ The Council's representative had been delayed and arrived after I had left the site.

² It is usual to include reference to the time period for enforcement within the Reasons for Issuing the Notice which the Council has done in this case at paragraph 4.

outside rear wall, and where the monopitch of the outrigger met its side wall. The dormer extension has been constructed in the same vertical plane as these walls whereas limitation B.2(b)(i)(bb) states that the edge of the enlargement closest to the eaves of the original roof should be, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves. I cannot see that there is any coherent case made as to why it would not have been practicable to construct the dormer with a 0.2 metre set back. The works therefore fail to accord with limitation B.2(b)(i)(bb).

12. I find, for these reasons, that the development would not have been permitted development. I know of no other reason why, without planning permission, the works would not have amounted to a breach of planning control.

13. The appeals on ground (c) fail.

Appeal B - the appeal on ground (a) and the deemed application

Planning policies

14. I have been referred to policies DM DC1 and DM DC5 of the London Borough of Richmond upon Thames Development Management Plan and Core Strategy policy CP7. Taken together these policies seek to deliver development of high quality design that recognises distinctive local features and character, relates well to its surroundings and protects the amenity of neighbours including in terms of visual effects.

15. Planning law requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise³.

16. National planning policy as set out in section 12 of the Framework seeks to ensure that the design of development is sympathetic to local character and delivers a good standard of amenity for existing and future users. The cited policies are in general conformity with the Framework.

17. Design guidance for roof extensions is set out in Richmond upon Thames House Extensions and External Alterations Supplementary Planning Document. This is a further material consideration that I shall take into account.

Permitted development rights (the fallback position)

18. Under Class B a dormer that would be mostly the same as the "as built" dormer could be constructed under permitted development rights. Requirement 5.ii of the notice provides for amendments to the dormer as built such that it would comply with the limitations and conditions of Class B. The main changes would be a reduction in the ridge height to the height of the original ridge and the setting back of the dormer by 0.2 metres from the eaves.

19. The permitted development fallback position, and the alternative requirement 5.ii, are material considerations for the deemed application to which I afford substantial weight.

³ S38(1) and (6) of the Planning and Compulsory Purchase Act 2004 and s70(2) of the Town and Country Planning Act 1990.

Main issue

20. When having regard to the policy background and the submissions made by the parties, I consider the main issue for the appeal on ground (a) and the deemed application to be the effect of the dormer as built, when compared to a permitted development dormer and the dormer that would result under requirement 5.ii, upon the character and appearance of the area.

Effect upon the character and appearance of the area

21. The area is of mixed character and appearance with the immediate surroundings to the east side of Station Road being comprised mainly of terraced and semi detached villas with a variety of roof forms. A number of other properties in the surroundings have similar L-shaped dormers.
22. Being positioned at the end of a terrace the side elevation of the dormer can be seen from the street through the gap between numbers 23 and 25. The ridge of the roof is also evident. However, from the street when looking upwards towards the ridge, it is difficult to discern that the ridgeline has been raised. The firewalls and chimney features that divide the roof form a strong visual break, the ridgeline remaining clearly below the height of the firewall. Together with the variations in roof form the ridge height does not appear detectably different from the ridges of the other properties in the terrace. Neither would there be any appreciable difference in views from the street by a small reduction to its former height as would result from compliance with requirement 5.ii.
23. To the rear it can be seen that a number of surrounding properties have an assortment of extensions and roof dormers. Sizable rear dormers, including L-shaped dormers, are characteristic of the area.
24. The dormer can be seen, at a distance, from the rear facing elevations of the surrounding properties and within the context of other properties with dormers. The marginal increase in ridge height is barely detectable (if at all) in these views as is the absence of a set back from the eaves. Even in closer views from neighbouring gardens the raised ridge height and lack of set back is hardly perceptible.
25. On close inspection, from within the garden of the property itself, it can be seen that the dormer has been built by extending upwards the rear wall of the main property and the side wall of the outrigger. However, false eaves have been applied and, by the use of vertical tile hanging for the dormer, there is a visual break between the walls and the dormer. The setting back of the dormer by 0.2 metres would make no significant difference, in terms of effect upon the character and appearance of the area, in these overall circumstances.
26. I find, on balance, that the overall difference in effect upon the character and appearance of the area is neutral when comparing the "as built" dormer to that which could be erected under permitted development rights and that which would result from compliance with requirement 5.ii. of the notice. Even though the dormer does not wholly accord with the Council's guidance I cannot see that there is any reason to find against the appeal development on this main issue in the particular circumstances of this case.

Other matters

27. I have been referred to another appeal decision relating to a site elsewhere in the district. However, I do not know the full details of that case and I have, therefore, decided this appeal on its own merits.
28. It has been suggested that other properties in the surroundings have ridge heights that have been raised in a similar manner. Whilst I do not rule out that possibility this consideration has not influenced my findings on the acceptability of the development in its own particular circumstances.
29. There is no material difference in effect upon the living conditions of neighbours in terms of privacy, visual effects and outlook when comparing the "as built" dormer to a permitted development dormer and to that which would result from compliance with requirement 5.ii..

Conditions

30. There are no conditions that have been suggested by any party and none that I consider necessary.

Conclusions on ground (a) and the deemed application

31. On ground (a) I find that there is no adverse effect upon the character and appearance of the area arising from the development as built when compared to that which could be constructed under permitted development rights and that which would result from compliance with requirement 5.ii.. The development does not offend the policies of the development plan in these circumstances. The deemed application shall, therefore, be granted.

Conclusion

32. For the reasons given above I conclude that Appeal A, on grounds (b) and (c), should not succeed. It is unnecessary for me to consider the appeal on ground (f) as the enforcement notice will be quashed in consequence of my decision to allow Appeal B on ground (a). I shall, therefore, take no further action on ground (f).
33. In respect of Appeal B I conclude this should succeed on ground (a) and I will grant planning permission in accordance with the application deemed to have been made under s177(5) of the Act, which will now relate to the corrected allegation. I do not need to consider the appeal on ground (f).

Susan Wraith

Inspector