



Appeal Decision

Site visit made on 3 July 2019

by B M Campbell BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2019

Appeal Ref: APP/N5660/C/18/3215033

56 Barcombe Avenue, London SW2 3AZ

- 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 Satnarine Mohabir against an enforcement notice issued by the Council of the London Borough of Lambeth.
 - The enforcement notice, numbered 17/00816/3CNS, was issued on 12 October 2018.
 - The breach of planning control as alleged in the notice is without planning permission:
 - A. The erection of a full width dormer roof extension across the rear roof slope of the premises with uPVC windows and a door in the rear elevation allowing access to the flat roof of the original 2-storey rear projection.
 - B. The installation of metal railings forming a balustrade on the flat roof of the 2-storey rear projection that facilitates the use of the flat roof as a roof terrace.
 - The requirements of the notice are to:
 - a) Remove the unauthorised dormer roof extension in its entirety from the premises and reinstate the rear roof slope of the premises complete with modest dormer and set of wooden sash windows as existed prior to the breach of planning control in terms of design, size, materials, profile and colour; and
 - b) Remove the unauthorised terrace railings and all associated fixtures and fittings in their entirety from the premises and make good the flat roof as existed prior to the breach of planning control; and
 - c) Remove all associated waste and debris resulting from compliance with the above steps from the premises.
 - The period for compliance with the requirements is four 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.
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Decision

1. It is directed that the enforcement notice be corrected by the addition of the words "and timber" after the word "metal" in paragraph 3B. Subject to this correction the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary matter

2. At my visit, I noted that both timber and metal railings had been installed on the flat roof of the property. Both parties agreed that the alleged breach of planning control described at paragraph 3B of the notice should be corrected accordingly.

The appeal on ground (a)

3. The ground of appeal is that planning permission should be granted. The appeal site lies within the Leigham Court Estate Conservation Area. Section 72(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty upon me in dealing with this appeal on ground (a) to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
4. In addition, in considering whether planning permission should be granted, I am required to determine the deemed planning application in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.¹ The Development Plan for the area comprises the London Plan 2016 and the Lambeth Local Plan 2015. My attention has been drawn to a number of policies in the Plans which collectively seek a high quality design for development, with respect for the particular context and (in the case of extensions) for the host building, and respect for neighbouring amenity. In relation to Conservation Areas in particular, Local Plan policy Q22 requires preservation or enhancement of character or appearance. The Council has also drawn attention to its adopted Supplementary Planning Document (SPD) *Buildings and Extensions* whilst the Appellant has provided a copy of the Council's Supplementary Planning Guidance (SPG) *Leigham Court Estate Conservation Guidelines*.
5. Against this background, the main issues are:

Whether the dormer and railings preserve or enhance the character and appearance of the Leigham Court Estate Conservation Area; and

The effect of the development on the living conditions of neighbouring residential occupiers.
6. The Leigham Court Estate Conservation Area comprises a predominantly residential area where, in the main, properties have been laid out in a formal grid pattern of long terraces. The street frontages however, display a wide variety of architectural detailing resulting in a most attractive residential environment of great character.
7. Clearly, the front facades and views of the rear of properties where seen from the public domain contribute greatly to the significance of the Conservation Area. But it does not follow that the rear of buildings, not visible from any public vantage point, make no contribution to the character and appearance of the area and this is especially so when they can be seen in private views from many neighbouring properties as in this case.
8. At the rear, the terrace, of which the appeal property is part, has a repetitive form with pairs of handed, flat roofed two storey projections and, at roof level, pairs of handed, modest flat roofed dormers lighting the staircases to the top floor. At the appeal property, the small part-width dormer has been replaced by one that is both higher than that of its neighbours and spans the width of the property. It is an overly dominant feature which obscures most of the rear roof slope and stands out in stark contrast to the subservient nature of the original modest dormers on the roofs of neighbouring properties. It harms both the character and appearance of the host building and disrupts the

¹ S70(2) of the Act and s38(6) of the Planning and Compulsory Purchase Act 2004.

- regular, repetitive pattern of proportionate features which gives rhythm to the rear of the terrace as a whole.
9. The provision of railings around the roof of the two storey projection presents a further prominent and incongruous addition along the rear of the terrace. Whilst I saw railings have been installed around the roof of another property a few doors away and on the terrace opposite, these demonstrate the unsympathetic nature of such features and do not provide justification for more which would result in additional harm. My attention has been drawn to other roof extensions and terraces both within and adjoining the conservation area in more visible locations and I took the opportunity to look at these at my visit. However, the presence of similar unsuitable development cannot support yet another inappropriate scheme which would further erode the qualitative built form in this particular part of the conservation area. I did not find overlarge dormers and railings around roof terraces to be so widespread as to have become prevalent or characteristic of the area.
 10. On the first main issue I conclude that the development fails to preserve the character or the appearance of the Leigham Court Estate Conservation Area. In so doing and in failing to achieve a high quality design with respect for its context there would be conflict with the policies of the Development Plan, in particular Local Plan policies Q5, Q11 and Q22, and with the Council's SPD and SPG.
 11. Turning to the second issue, the use of the flat roof of the two storey rear projection in connection with the use of the property as a dwellinghouse does not amount to development requiring planning permission. Nonetheless, the door in the dormer extension and the provision of railings around the perimeter of the roof facilitate more active use of the roof as an outdoor amenity area including right up to its edges. I saw that views into the windows and gardens of neighbouring properties were available from the roof. Whilst a degree of mutual overlooking from rear facing windows is to be expected where residential properties back onto one another, I consider the degree of overlooking from people standing in the open in an elevated position is perceived as more intrusive than someone looking out of a window. In addition, noise from activity taking place in the open in this elevated position would be more disturbing for neighbours than noise from people using their gardens at ground level.
 12. Whilst the Appellant says the railing would facilitate safe maintenance of the flat roof, I do not find this a compelling argument. Many flat roofs are not enclosed by railings and yet are satisfactorily maintained.
 13. On the second main issue I conclude that the development damages the living conditions of neighbouring residential occupiers and in this respect there is conflict with Local Plan policy Q2.
 14. In terms of the National Planning Policy Framework (NPPF), the harm to the designated heritage asset, the conservation area, would be less than substantial. That being the case, NPPF paragraph 196 advises that the harm should be weighed against the public benefits of the proposal, including securing optimal viable use. Whilst the provision of an additional bathroom within the enlarged dormer and additional useable outdoor space might be desirable, the lack of these does not impact upon the viability of the continued use of the property as a dwellinghouse. They do not outweigh the harm

identified in this case nor indicate that the proposal should be determined otherwise than in accordance with the Development Plan.

15. The appeal on ground (a) fails.

The appeal on ground (f)

16. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary. In this respect the Appellant suggests that as the two elements of the development, the dormer and the railings, are severable, it would be possible to enable one or other to be retained. That would be more properly dealt with in the appeal on ground (a) since s177(1)(a) gives power to grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates (my emphasis). However, it is clear from my consideration of the main issues under ground (a) that the harm identified would not be overcome by the retention of either the dormer or the railings. That is so even if access to the roof from the retained dormer was to be restricted as suggested. Permission for either part in isolation would not be justified or acceptable.

17. In relation to ground (f) itself, the purpose of the notice is clearly to remedy the breach of planning control that has occurred (s173(4)(a)). No lesser steps than the restoration of the land to its condition before the breach took place would remedy the breach and thus the steps as specified in the notice are not excessive.

18. The appeal on ground (f) fails.

The appeal on ground (g)

19. The ground of appeal is that the time given to comply with the requirements of the notice falls short of what should reasonably be allowed. In my view four months should be sufficient for arrangements to be made and for the work to be undertaken. I have been referred to personal circumstances pertaining to the Appellant, but no reason has been given as to why those should prevent the steps being carried out within the specified period. I have nothing of substance from which to draw a conclusion that the four month period allowed should not be sufficient. Nonetheless, the Council has the power under 173A(1)(b) to exercise its discretion to extend the period for compliance should it consider that are justifiable grounds for doing so.

20. The appeal on ground (g) fails.

B M Campbell

Inspector