
Appeal Decision

Site visit made on 28 August 2019

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 September 2019

Appeal Ref: APP/Y5420/C/18/3218727

117 Rosebery Avenue, London N17 9SE

- 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 Adebola Adebajo against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The enforcement notice, numbered UNW/2016/00354, was issued on 15 November 2018.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of rear dormer extension.
 - The requirements of the notice are:
 1. Remove the rear dormer window in its entirety; and
 2. Reinstate the roof profile to what it was before the unauthorised works were carried out;
 3. Remove from the property all resultant debris.
 - The period for compliance with the requirements is three 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. Since the prescribed fee has been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act also falls to be considered.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

The Appeal on Ground (a) and the Deemed Planning Application

Main issue

2. The effect of the rear dormer extension on the character and appearance of the existing building and surrounding area.

Reasons

3. 117 Rosebery Avenue comprises a mid-terrace property containing two flats and with a modest rear garden. To the rear is a public footpath, known as Carbuncle Passage, from which the back of the property including dormer is visible. The upper floor flat has been extended with a large dormer containing a bedroom over the main dwelling and a bathroom over the projection to the rear. The bathroom window is on the side of the extension, with a blank rear wall over the rear projection. The extension projects with a vertical wall above the ridge of the pitched roof of the rear projection adjacent to the boundary with the attached neighbouring property.

4. As a result of the size, scale and bulk of the dormer, in particular that over the rear projection, this is a boxy and prominent extension to the property. Although views from Carbuncle Passage are restricted to some extent by trees, it is prominent in views from the surrounding area and dominates the rear of this part of the terrace. Consequently, it appears incongruous on the roof of the building such that it harms the character and appearance of the building and surrounding area.
5. I note that there are a number of other dormer windows on the rear of buildings along Rosebery Avenue, some of which are similar in scale, appearance and shape to that constructed at no. 117. Nevertheless, as a proportion of the number of terraced houses these are few in number and have a similar effect on the character and appearance of the area. I understand that certificates may have been issued by the Council that demonstrate that some comply with the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). I note that a dormer may have been possible had the building been in use as a single dwellinghouse under the GPDO. However, I have limited information on these matters and, in any event, need to consider this case on its individual merits.
6. For these reasons, I conclude that the dormer extension harms the character and appearance of the existing building and surrounding area. As such, it conflicts with Policy SP11 of the Haringey Local Plan, Policies DM1 and DM12 of the Haringey Development Management Development Plan Document and Policies 7.4 and 7.6 of the London Plan. These policies seek a high and sensitive standard of design, including of roof extensions, that respects local context and character and relates positively to neighbouring structures.
7. The dormer provides additional space to occupants of the upper floor flat. This is not an uncommon scenario and is not sufficient to outweigh the harm and policy conflict identified. I understand that the appellant would be willing to discuss alterations to the appearance of the dormer with the Council, but I need to consider the development on its individual merits.
8. For the reasons set out above, I conclude that on balance the proposed development would not accord with the development plan. The appeal on ground (a) therefore fails.

The Appeal on Ground (g)

9. An appeal on this ground is that the period specified in the notice for compliance falls short of what should reasonably be allowed.
10. The notice requires substantial works comprising the removal of the roof extension and reinstatement of the roof profile of the building prior to the extension. Suitable contractors would need to be engaged to carry out the work. Had the enforcement notice taken effect on the date given, the works would have been required to take place in the winter, which is not the best time for such development.
11. I understand that the flats in the building are occupied by tenants. Although I am not convinced that those in the ground floor flat would be materially affected by the works, those in the flat in the upper floors would need to find alternative accommodation while the work is carried out. However, I have limited details of the nature of their tenancy or of any applicable notice periods

to assess how these might be affected by the compliance period. The requirements of the notice would reduce the supply of housing for a temporary period whilst the works are carried out.

12. However, the appeal on ground (a) has been dismissed and the appellant is therefore legally obliged to comply with the requirements of the notice. Whilst I accept there would be significant disruption to the tenants occupying the upper floor flat, it is unclear why it would not be possible to organise the works in the three month period in the notice.
13. Taking into account all the evidence before me, I do not consider that three months is an unreasonable period for such works, particularly taking into account that this would be during the autumn rather than winter. Furthermore, the Council have drawn my attention to their power under the Act to extend the period for compliance with the notice in the event that they are persuaded there is sufficient justification for them to consider it is necessary to do so.
14. The appeal on ground (g) therefore fails.

AJ Steen

INSPECTOR