



Appeal Decision

Site visit made on 8 August 2019

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 16 September 2019

Appeal Ref: APP/L5810/C/18/3213282 150 Priory Road, Hampton TW12 2PS

- 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 Paul Wilkinson against an enforcement notice issued by the Council of the London Borough of Richmond Upon Thames.
 - The enforcement notice was issued on 29 August 2018.
 - The breach of planning control as alleged in the notice is: Without the grant of planning permission and within the past four years the erection of a rear dormer roof extension and its alteration to roof pitch over outrigger ("the Unauthorised Works").
 - The requirements of the notice are to:
 - (i) Remove the Unauthorised Works; and
 - (ii) Restore the Property to its condition prior to the breach of planning control.
 - The period for compliance with the requirements is three calendar months after this notice takes effect.
 - 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. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Formal Decision

1. It is directed that the enforcement notice be corrected by the deletion of "its" in the description of the breach of planning control.
2. The appeal is allowed on ground (g), and it is further directed that the enforcement notice be varied by the deletion of three calendar months and the substitution of six calendar months as the period for compliance. Subject to this correction and variation the enforcement notice is upheld.
3. It is further directed that planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for alteration to roof pitch over outrigger and planning permission is refused in respect of the erection of a rear dormer roof extension.

Background and the notice

4. Planning permission was refused (ref 18/0918/HOT) in June 2018 for a rear dormer roof extension and variation to roof pitch over outrigger and insertion of two rooflights to the front elevation. Partly retrospective at the date of decision, works continued, and the Council subsequently saw fit to issue an enforcement notice requiring the unauthorised works to be removed.
5. The Council considered it expedient to issue the notice due to what it considered to be an unneighbourly, over-dominant and visually intrusive form

of development, harmful to the character and appearance of the host property and its surrounding area.

6. The notice describes two elements of unauthorised development. To clarify that the alteration to the roof pitch over the outrigger is a separate element, I will correct the description of the breach of planning control by deleting "its".

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

Main Issue

7. This is the development's effect on the character and appearance of the area.

Reasons

8. The immediate area is largely typified by rows of terraced properties. The end dwellings were built with characteristic hipped roof slopes, and the appeal dwelling was a case in point. Although a two-storey side extension was added at some stage the hipped roof form remained so and this was the case until the alterations at issue were carried out.
9. The recent development involves the erection of a prominent dormer extension one of the cheeks of which is clearly visible in its entirety from Priory Road. The box-like dormer's flat roof is roughly flush with the dwelling's roof ridge and to facilitate this the upper section of the hipped roof has been modified to form a gabled end.
10. The resultant arrangement represents a prominent and incongruous high level alteration to the dwelling which fails to integrate with, and has little regard to, the design characteristics of both the host dwelling and the surrounding physical form. In contrast, I find that the pyramidal roof created over the outrigger's roof relates only to a minor alteration made to the previous roof over a two-storey outrigger which was already in situ. As a single entity this element is acceptable in both form and design and causes no harm to visual amenity.
11. The Council's Supplementary Planning Document 'House Extensions and External Alterations' (SPD) advises that dormer extensions should not dominate the original roof and, accordingly, they should be set well into the roof plane. This reflects the amenity objectives of policy LP8 of the Council's Local Plan (LP) which, amongst other things, seeks to ensure that development should not have an overbearing impact. In this instance I am not convinced by the appellant's comments that the dormer is significantly set in from the eaves and that the disruption to the roof symmetry is not particularly noticeable in the streetscene. Further, the fact that the site does not fall within a designated conservation area does not mean that the requirement for high quality and cohesive design is lessened.
12. The dormer extension and the associated changes made in this instance have had an overbearing impact and, in being both out of character and obtrusive in the street scene, they conflict with the aims of LP policy LP1. In light of this I consider this element as visually harmful to the character of the host dwelling and the general pattern of development.
13. As an alternative to the development in situ, the appellant has submitted a set of revised drawings to illustrate modifications that he considers could be made

to bring the development within the parameters of Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015. This might be the case, but no measurements have been provided nor annotations to the drawings which would illustrate the respective existing and proposed increases in volume, and confirm that any proposed changes, including to that of the dormer, would constitute permitted development.

14. Reference is also made to a previous s192 application (ref 17/3009/PS192) made to the Council whereby a Certificate of Lawful Development was sought for a dormer extension and roof alterations which the appellant considered would be permitted development. However, this application was withdrawn before the Council were able to assess the proposal and, besides, the relevant drawings are not before me for consideration.
15. In the circumstances, and notwithstanding my findings as to the planning merits and impacts of the development, I have not been provided with any properly articulated fallback position. It remains open for the appellant to commence negotiations with the Council to this end and, accordingly, any such modifications must remain a matter between the two main parties.
16. In conclusion, whilst I find that the dormer extension and the facilitative roof alterations made are harmful to the character and appearance of the area, and in material conflict with LP policies LP1 and LP8 and also the Council's SPD, I am satisfied that the alterations made to the outrigger's roof are acceptable in this respect. Accordingly, on this ground I will make a split decision, allowing one element of the development whilst dismissing the other. The appeal is, therefore, successful in part.
17. In the above connection Section 180(1) of the 1990 Act as amended provides that where, after the service of an enforcement notice planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as it is inconsistent with that permission.

The Appeal on Ground (f)

18. The appeal on ground (f) is that the requirements of the notice exceed what is necessary. When an appeal is made on ground (f), it is essential to understand the purpose of the notice. S173(4) provides that the purpose shall be to remedy the breach of planning control or to remedy any injury to amenity. In this case it is clear from the requirements of the notice that its purpose is to remedy the breach by restoring the property to its condition prior to the breach.
19. Under ground (a) I have found that planning permission should be granted for the alteration to the roof pitch of the outrigger so it is not necessary for me to consider the appeal on ground (f) in relation to this element.
20. As to the dormer extension the appellant states that the additional volume it creates would not be significant and, as it would be feasible to reduce its volume within permitted development thresholds, the remedy sought by the Council exceeds what is necessary. However, these points have already been considered under ground (a). There is no properly articulated alternative scheme that would achieve such a solution, and no other obvious alternative that would remedy the breach of planning control which is the purpose of this

element of the requirements of the notice. Accordingly, the appeal on ground (f) must fail.

The Appeal on Ground (g)

21. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The enforcement notice as corrected requires the removal of both the dormer extension and the roof to the outrigger within three months of it taking effect but, as I am granting permission for the altered outrigger, only the dormer is at issue. The appellant has requested that this period be increased to six months, given the likelihood of negotiations taking place between the main parties as to possible modifications to the dormer's enlargement so as to fall within the parameters of Class B.
22. In such circumstances, for a suitable alternative scheme to be arrived at, and to then allow a period for its consideration and so as to avoid the need to reinstate the previous roof form as required by the notice, only to alter it again to implement a revised scheme, I consider it would be reasonable to extend the period for compliance to six months .
23. Therefore, I consider that the appeal on ground (g) should succeed to that extent and I shall vary the terms of the notice to allow a compliance period of six months from the date the notice takes effect.

Conclusion

24. For the reasons given above I conclude that the appeal should succeed in part only, and I will grant planning permission for one part of the matter the subject of the enforcement notice, but otherwise I will uphold the notice with a correction and a variation and refuse to grant planning permission on the other part. By virtue of the Act the requirements of the upheld notice will cease to have effect so far as inconsistent with the permission which I have granted.

Timothy C King

INSPECTOR