



Appeal Decisions

Site visit made on 29 August 2019

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 07 October 2019

Appeal A - Ref: APP/U5930/C/18/3218883

16 King Edward Road, London E17 6HZ

- 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 A Ferretti against an enforcement notice issued by the Council of the London Borough of Waltham Forest.
 - The enforcement notice was issued on 19 November 2018.
 - The breach of planning control as alleged in the notice is without planning permission; construction of rear dormer roof extension raised ridge and raised front roof plane on the land.
 - The requirements of the notice are 1) Reduce the height of the main roof ridge and the roof plane back to the original position prior to the unauthorised works. 2) Carry out alterations to ensure the rear dormer roof extension complies with all the provisions of Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2018. 3) Make good and damage caused to the land by the works and remove all associated materials and debris resulting from the works required in steps 1 and 2 above from the site.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B - Ref: APP/U5930/C/18/3220872

16 King Edward Road, London E17 6HZ

- 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 Mrs Ferretti against an enforcement notice issued by the Council of the London Borough of Waltham Forest.
 - The enforcement notice was issued on 19 November 2018.
 - The breach of planning control as alleged in the notice is without planning permission; construction of rear dormer roof extension raised ridge and raised front roof plane on the land.
 - The requirements of the notice are 1) Reduce the height of the main roof ridge and the roof plane back to the original position prior to the unauthorised works. 2) Carry out alterations to ensure the rear dormer roof extension complies with all the provisions of Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2018. 3) Make good and damage caused to the land by the works and remove all associated materials and debris resulting from the works required in steps 1 and 2 above from the site.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal C - Ref: APP/U5930/W/18/3218882
16 King Edward Road, London E17 6HZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr & Mrs A Ferretti against the Council of the London Borough of Waltham Forest.
 - The application Ref 182756, is dated 7 August 2018.
 - The development is loft conversion.
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Decisions

1. Appeals A and B are dismissed, and the enforcement notice is upheld.
2. Appeal C is dismissed.

Appeal A on ground (a) and appeal C against non-determination

Background & main issues

3. Following the submission of appeal C against non-determination, the Council have clarified the position they would have taken on the application in the event that they had made a decision. On that basis, the main issues are the effect of the development on:
 - The character and appearance of the surrounding area; and
 - The living conditions of neighbouring residents, with particular regard to outlook and visual impact.

Character and appearance

4. The appeal site is a two-storey mid terraced dwelling located in a row of similar properties. The development comprises a flat-roofed box dormer to the rear roof slope and a raised ridge height to the main dwelling.
5. Class B of Part 1 Schedule 2 of the Town and County Planning General Permitted Development Order 2015 (as amended) (the GPDO) states that development is not permitted by Class B if (b) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof. The ridge height of the main roof at No 16 has been raised by around 240mm, according to the appellants, or around 340mm according to the Council, and therefore is not permitted development under Class B.
6. The appellants contend that, apart from the raised ridge height, the dormer complies with the requirements of the GPDO. However, the dormer and the change to the ridge were part and parcel of the loft development that appears to have been carried out as one building operation. For the appellants' argument to succeed, it would be necessary to establish that all the development carried out was permitted under the GPDO. As this is not the case, the whole development falls to be considered against the relevant development plan policies.
7. The Council's document entitled 'Supplementary Planning Document - Residential Extensions and Alterations' (SPD) sets out guidelines for the design of dormer extensions. The SPD states that any dormer that goes above the ridge height of the host building will not be acceptable, and so the development

conflicts with that advice. Whilst rear dormers are generally more likely to be found acceptable, the SPD holds that the proportions of such extensions should be appropriate.

8. Despite the numerous alterations that have taken place over the years, King Edward Road retains a strong degree of uniformity in terms of the overall form and design of the houses. Part of its cohesion derives from the traditional pitched roof forms that survive along the street. Although the upstands hide much of the roof slopes in longer oblique views, I saw on my visit that the increased ridge height is clearly visible from the main road to the front of the dwelling.
9. Although I accept that a number of houses have rear dormer extensions, not all do. The satellite image (Figure 1) provided in the appellants' statement of case shows a greater number of unaltered roof slopes, which leads me to the view that the original roof profiles remain the dominant form in the area. Therefore, the raised ridge height at the appeal site is out of keeping with the prevailing form of the terrace, and introduces an incongruous feature that is detrimental to the visual appearance of the area.
10. At the rear, the dormer is set back from the eaves by around 200-300mm. However, it otherwise occupies the entire roof plane, adding considerable bulk at the upper level. As such, it is of a disproportionate size and scale, and is an overly dominant feature in relation to the modest dimensions of the house. It is an unsympathetic addition to the property and materially harms the character and appearance of the area.
11. I accept that, due to the position of the development, it is not visible from the public realm. However, it is visible in private views in the surrounding area, and the relevant policies apply to all development, including those that are not readily visible from public places. My attention has been drawn to five other examples of box dormers on the west side of King Edward Road, and six examples on the east side. On a street of up to 52 houses, this evidence indicates that box dormer extensions remain in the minority.
12. Taking these factors in combination, I conclude that the development unacceptably harms the character and appearance of the surrounding area. It thus conflicts with Policy CS15 of the Waltham Forest Local Plan Core Strategy, insofar as it requires new development proposals to give strong recognition to local distinctiveness and spatial context, including elements such as building typology and height, and street pattern, Policy DM4 of the London Borough of Waltham Forest Local Plan Development Management Policies (DMP), which expects residential alterations to relate to the original 'host' building and to retain existing traditional features, and DMP Policy DM29, which seeks to ensure a high standard of urban and architectural design. It is also at odds with the guidance given in the SPD.
13. I agree with the appellants' position that SPD guidelines are not immutable, and that a site-specific approach should always be taken. However, the SPD is an adopted Council document which contains useful and well established design principles. I am not persuaded that that these guidelines should be set aside in this particular case.
14. My attention has been drawn to a comparable development at 52 King Edward Road. In 2004, the Council served an enforcement notice, which was quashed

on appeal¹. The Inspector found the rear dormer development to be acceptable in terms of its visual impact, and I note that the Council did not object to the raised ridge height in that case. However, whilst I have taken this decision into account, it is now approximately 15 years old. It predates the current development plan policies, the NPPF and the SPD by some time, which significantly reduces the weight I can afford it in my consideration. Even if I accept the appellants' position that specific design policies have not radically changed in that time, this circumstance does not justify the harm that arises from the appeal scheme.

15. The appellants have replaced the previous concrete roof tiles with natural slate which, although welcome, does not mitigate the harm I have identified. I note also the personal circumstances of the appellants and the desire to provide additional living accommodation for their family. However, personal circumstances seldom outweigh more general planning considerations, and it is likely that the adverse effects of the development would remain long after the current personal circumstances ceased to be material. I have had regard to the representation in support of the development, but this has not led me to a different conclusion.

Living conditions

16. The Council voice concern regarding the effect of the development on the living conditions of neighbours at 14 and 18 King Edward Road, which adjoin the appeal site. In terms of outlook from the rear elevations of Nos 14 and 18, there is little evidence to suggest that the windows of any habitable rooms face towards the appeal development. The new dormer is likely to be visible from the gardens of the neighbouring dwellings, but it is seen against the context of the existing roofline. Again, there is little evidence that the increased height significantly harms the outlook from those gardens, or results in an unacceptable degree of overshadowing.
17. In the absence of compelling evidence to the contrary, I conclude that the development does not materially harm the living conditions of neighbouring residents. It thus complies with DMP Policy DM4, insofar as it seeks to protect occupiers of nearby properties from excessive loss of residential amenity, and DMP Policy DM32, insofar as it seeks to maintain outlook for neighbours in their homes and gardens. There is no conflict with the aim of the SPD to promote neighbourly development.
18. However, in view of my findings with regard to character and appearance, appeal C is dismissed, and appeal A on ground (a) fails.

Appeals A & B on ground (b)

19. The appeal on ground (b) is that the matter alleged in the enforcement notice has not occurred. The appellants do not dispute that the works to create a dormer extension to the rear have been carried out, and that these works included an increase to the ridge height of the main roof. However, they dispute the wording in the allegation that refers to the 'raised roof plane.'
20. The increase to the ridge height was achieved by extending the front slope along its existing plane so that the new ridge sits slightly above and behind its

¹ APP/U5930/C/04/1162991

former position. As the appellants point out, the front roof slope remains parallel to the adjacent brick upstand.

21. In their statement of case, the Council clarify that they were referring to this continuation of the roof slope, and that this constitutes the alteration to the roof slope that they object to. Taking all the evidence into account, it appears to me that there has been a difference between the main parties in interpreting the words of the allegation. Nonetheless, there can be no doubt that a change has been made to the roof slope that has resulted in its extension, terminating at a higher ridge level than previously existed. I therefore conclude that the alleged breach of planning control has occurred, and so the appeal on ground (b) fails.

Appeal A and B on ground (g)

22. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable.
23. The appeal site is permanently occupied by the appellants and their young family. They argue that the works to meet the requirements set out in the enforcement notice will be expensive, time-consuming and disruptive. Whilst I do not doubt that the remedial works will be disruptive and time-consuming, these outcomes will be the same, regardless of the time scale within which they are carried out.
24. The appellants contend that organising and implementing the building works required will take time. I accept the importance of finding reliable builders. However, even if some firms were to take several weeks to provide a quotation, as the appellants suggest, this is still a relatively small proportion of the six months allowed by the notice.
25. In terms of the expense, the appellants argue that it will take time to raise additional funding. However, it seems to me that the majority of the works to carry out the loft conversion have been completed, and that the further works required by the enforcement notice would be relatively minor. The appellants effectively incurred these costs themselves by carrying out the development without planning permission, and so this factor in itself does not justify an extension of the stated time period. Moreover, I note the Council's willingness to extend that period if unforeseen difficulties should be encountered.
26. Therefore, taking all these circumstances into account, I am not satisfied that there is good reason to extend the compliance period, and I consider that the six months given is sufficient to meet the requirements of the notice. The ground (g) appeal fails accordingly.

Conclusions

27. Appeals A and B are dismissed, and the enforcement notice is upheld.
28. Appeal C is dismissed.

Elaine Gray

INSPECTOR