



Appeal Decision

Site visit made on 12 September 2019

by Timothy C King BA (Hons) MRTPI

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

Decision date: 9 January 2020

Appeal Ref: APP/N5090/C/19/3225785 129-133 The Broadway, London NW7 4RN

- 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 Nisar Hussain against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The enforcement notice was issued on 26 February 2019.
 - The breach of planning control as alleged in the notice is: The development of a rear dormer window roof extension and the retiling of a front gable without planning permission (as shown in photo).
 - The requirements of the notice are:
 1. Demolition/removal of the rear dormer.
 2. Removal of the brown tiles from the front gable
 3. Retiling of the roof as it was previously using green pantiles for the front elevation and brown flat tiles on the rear elevation in accordance with the existing building.
 4. Permanently remove all constituent materials resulting from the works in 1, 2 and 3 above from the property.
 - The period for compliance with the requirements is 6 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 made under section 177(5) of the Act as amended falls to be considered.
-

Formal Decision

1. The enforcement notice is corrected as follows:

Delete Requirements 2 and 3 and replace these with the following requirement:

1. "Removal of the brown tiles from the centrally positioned hipped projection feature on the front roof plane, and re-clad with green pantiles to match the existing roof."

Delete the wording "2 and 3" from Requirement 4 (which becomes Requirement 2).

2. The appeal is allowed insofar as it relates to the rear dormer and planning permission is granted for the rear dormer on the application deemed to have been made under section 177(5) of the 1990 Act as amended. Otherwise the enforcement notice is upheld, as corrected.

The Notice

3. I find that Requirement 2 is somewhat vague and, for clarity, is best combined with Requirement 3. Given that Requirement 1 falls away by way of the part successful deemed planning application, the corrected notice needs only two requirements.

Background

4. Planning permission (ref H/05167/14) was granted in 2015 relating to the creation of a flat within the building's roofspace, involving the formation of two dormer roof extensions. It is understood that the permission was not implemented in accordance with the approved plans as a single, larger roof extension erected, instead. From the installation of facilitative rooflights within the property's roofslopes, it would appear that this brought about a further breach; the removal of a section of the terrace's distinctive copper green tiles from the front roofslope and their replacement with a brown coloured tile type.
5. In considering that the replacement tiles materially and uncharacteristically affected the building's external appearance, along with the unauthorised dormer built, the Council saw it expedient to issue an enforcement notice.

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

Main Issue

6. This is the effect of the development on the character and appearance of the host building and also the surrounding area.

Reasons

7. The appeal site sits within a crescent-shaped terrace. The part of the three-storey brick-built building at issue forms a return frontage along Goodwyn Avenue and the terrace's rear elevation can be clearly seen when walking along this road towards The Broadway.
8. The wider terrace's rear elevation displays a series of flat-roofed, three-storey outrigger stacks, positioned with regular spacing, but the integrity and symmetry is somewhat distorted at this end of the terrace, with a high parapet to its flank wall and an adjoining substantial two-storey, flat-roofed building, fronting Goodwyn Avenue and backing onto a small rear service road. This building, constructed of red-brick, contrasts starkly with the terrace, both in terms of its form and its brick type, but also partly obscures this section of the terrace.
9. Two stacks rise over the flat-roofed building, with the L-shaped dormer extending out from the rear roofslope above, but below the ridgeline. The main and wider part of the dormer integrates in its setting satisfactorily although the dormer's projecting rearmost section is considerably more prominent.
10. I find that this end of the terrace has a rather disparate physical arrangement, as is the case with the visible rear elevations of the Broadway properties adjacent to the opposite side of Goodwyn Avenue. Although matters are exacerbated by the dormer's projecting section this part of the dormer is of limited width and mass and sits above the space between two stacks,

comparatively set well back. The mixture of window sizes and profiles is also a factor.

11. The dormer is only readily visible when looking westwards along Goodwyn Avenue. Side on, when standing directly opposite, glimpses of its flat roof show that this is set down from the ridge. It is obtrusive, but in its wider context, and also relative to the terrace itself, I find that its prominence is lessened. The immediate built arrangement which I have described lessens the impact, and its presence would not give a green light for other roof additions along the terrace, views of which are relatively unencumbered. Any future such proposals would need to be assessed in terms of its particular context.
12. In situ, I find that the visual harm from the dormer is not significant. However, this is not the case with the replacement of the copper green tiles on a section of the front roofslope. These tiles are clearly characteristic of the terrace's roof, and this can be viewed widely from The Broadway. The emplacement of the brown tiles is thereby unduly prominent, and their introduction detracts from the terrace's frontage which stands as a single, distinct entity. Nonetheless, a distinction can be drawn between these tiles and those of a grey colour used at the rear, cladding the flanks of the dormer. Although readily visible, given the surrounding physical arrangement, the cladding does not significantly detract.
13. I have had regard to the representations received from interested parties, and acknowledge that the planning permission granted was not implemented correctly. However, this does not debar an assessment of the development in place, the merits and impacts of which I have discussed. Further, issues under the Building Regulations and Party Wall agreements are not matters which fall within my remit and cannot be material to my decision.
14. In summary, although I find that the tiles employed on the front roofslope are not acceptable I consider that, on balance, the rear dormer extension is acceptable in its immediate context at this particular end of the terrace, and is not unduly harmful to the character and appearance of the area. In the circumstances there is no significant material conflict with the design objectives of policy DM01 of the Council's Development Management Policies DPD, the broad aims of policies CS1 and CS5 of the Council's Core Strategy, and general advice provided by the Council's SPD. The replacement tiles used on the front roofslope do not satisfy general objectives in this regard.
15. Given the above, 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.

The Appeal on ground (f)

16. The appeal on ground (f) is that the requirements of the notice exceed what is necessary to remedy the breach of planning control or the injury to amenity caused by the alleged development. S173(4)(a) and (b) of the 1990 Act as amended provides that the purposes of an enforcement notice can be (a) to remedy the breach of planning control, including by restoring the land to its condition before the breach took place, or (b) to remedy any injury to amenity which has been caused by the breach.

17. It is necessary to first establish what the Council is seeking to achieve by the notice. In requiring for the removal of the dormer and the roof tiles the enforcement notice's purpose, with reference to the reasons for issue, was to remedy the breach occurring.
18. Under ground (a) I have found that planning permission should be granted for rear dormer extension so it is not necessary for me to consider the appeal on ground (f) in relation to this element. In terms of the tiles the appellant has indicated a willingness to stain the tiles in a matching colour. However, there is no guarantee that 'staining' would allow for a satisfactory visual integration, and in the absence of any articulated, alternative scheme for such, I consider that to best remedy the breach the tiles at issue should be removed and replaced with pantiles as specified in the notice. Natural weathering would likely assist integration.
19. The appeal on ground (f) therefore fails.

The Appeal on ground (g)

20. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant considers that a six month period is too short and believes that a more reasonable period for compliance would be nine months.
21. The six month period originally concerned also the removal of the dormer extension, but the varied enforcement notice now requires only lesser works to take place. Accordingly, I consider that to remove and replace the roof tiles within the specified period would not be an unreasonably short period to allow for the required works to be completed.
22. I therefore conclude that the appeal on ground (g) should not succeed.

Overall Conclusion

23. For the reasons given 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 refuse to grant planning permission on the other part. The requirements of the upheld notice will cease to have effect so far as inconsistent with the permission which I will grant by virtue of s180 of the Act.

Timothy C King

INSPECTOR