
Appeal Decision

Site visit made on 26 February 2020

by D A Hainsworth LL.B(Hons) FRSA Solicitor

an Inspector appointed by the Secretary of State

Decision date: 19th March 2020

Appeal Ref: APP/N5090/C/19/3233535
107 Pembroke Road, London N10 2JE

- The appeal is made by Mark Billange under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: ENF/00264/17) issued by the Council of the London Borough of Barnet on 9 July 2019.
 - The breach of planning control alleged in the notice is "the erection of a[n] extension to roof including 3no rooflights to front roofslope and 1no L-shaped rear dormer".
 - The requirements of the notice are as follows: -
 - "1 Demolish the extension to roof including 3no rooflights to front roofslope and 1no L-shaped rear dormer and restore the property to the state in which it was prior to the breach as per plan number 107/N10-2JE/PD/002 Version A, included as part of planning application reference 19/2413/RCU, refused on 28.06.2019
 - 2 The permanent removal from the property of all constituent materials resulting from the works listed above."
 - The period for compliance with these requirements is four months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g). Since there is an appeal on ground (a), an application for planning permission is deemed to have been made by section 177(5) in respect of the matters stated in the notice as constituting a breach of planning control.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990 for development at 107 Pembroke Road, London N10 2JE consisting of the erection of an extension to the roof, including three rooflights in the front roof slope and one L-shaped rear dormer, subject to the condition that any window inserted in a wall forming a side elevation must be (i) obscure-glazed and (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

Reasons for the decision

Ground (a)

2. There have been no objections to the rooflights at the front; they are characteristic of the street scene here and I have no reason to raise any concerns about them. The main issue under ground (a) is whether the rear dormer is acceptable, having regard to its effect on the character and appearance of the house and its surroundings.
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3. The Council's appeal statement focusses on Policy DM01 of the Local Plan (Development Management Policies) Development Plan Document and the Local Plan Supplementary Planning Document: Residential Design Guidance. The Council maintain that the rear dormer is in conflict with both. Policy DM01 states that development proposals should preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets. The Residential Design Guidance has a section dealing with dormer roof extensions, which includes the statement "Dormer roof extensions should normally be subordinate features on the roof and should not occupy more than half the width or half the depth of the roof slope". Surprisingly, the section does not contain any information about householder permitted development rights, which are far less restrictive.
4. The enforcement notice requires the whole of the extension to be demolished. This is a disproportionate response to what has occurred. A lawful development certificate was granted on 14 July 2016 (Ref.No.16/3427/192) for proposed development comprising "Roof extensions including rear and side dormer window with 3 additional rooflights to front elevation", because it was permitted by Classes B and C of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015. The extension that the notice requires to be demolished is the one for which the certificate was granted, but the developer has failed to comply with planning condition B.2(b)(i) of Class B with respect to a part of the dormer. This condition requires eaves to be maintained or reinstated and dormers, so far as practicable, to be set back not less than 0.2m from the eaves.
5. The determining question in the ground (a) appeal is in my opinion whether the failure to comply with this condition has resulted in the extension having an effect on the character and appearance of the house and its surroundings that is serious enough to justify withholding planning permission for it. In my view it has not, for the following reasons. Large rear dormers are a feature of development at the rear of this row of terrace houses. Their impact is limited to their immediate surroundings. None of them complies with the Design Guidance or has been set back from the eaves, and at least one of them has been approved by the Council. In these circumstances, the extension as built preserves the local character and respects the appearance, scale, mass, height and pattern of its surroundings; it therefore complies with Policy DM01.
6. For the above reasons, the appeal has succeeded on ground (a) and planning permission has been granted. I have imposed a planning condition derived from Class B, in order to protect neighbours' residential amenities.

Grounds (f) and (g)

7. As a result of the success of the appeal on ground (a), the enforcement notice has been quashed. Grounds (f) and (g) no longer fall to be considered.

D.A.Hainsworth

INSPECTOR