



Appeal Decisions

Site visit made on 8 July 2020

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2020

Appeal A: APP/H5960/C/19/3238236

8 Ashbury Road, London SW11 5UJ

- 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 Sajri Gecaj against an enforcement notice issued by the Council of the London Borough of Wandsworth.
 - The enforcement notice was issued on 22 August 2019.
 - The breach of planning control as alleged in the notice is alterations including raising the ridge of the property, installation of non-conservation style rooflight and vents/flues.
 - The requirements of the notice are:
 - 1) Remove the unauthorised ridge, rooflight and vents/flues;
 - 2) Revert the ridge to original height and revert roof pitch to original gradient as shown on approved plans ref: 2018/0797;
 - 3) Install original terracotta ridge tile;
 - 4) Replace rooflight on top of rear roof extension with conservation style rooflight;
 - 5) Relocate the vents/flues to the rear so that they are not visible from the street; and
 - 6) Remove from the site all debris arising from compliance with steps 1 and 5.
 - The period for compliance with the requirements is three (3) months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/H5960/W/19/3238319

8 Ashbury Road, London SW11 5UJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Sajri Gecaj against the decision of the Council of the London Borough of Wandsworth.
- The application Ref: 2019/2260, dated 23 May 2019, was refused by notice dated 18 July 2019.
- The application sought planning permission for *'alterations including erection of a mansard roof extension to main rear roof and above part of the two storey back addition; installation of two rooflights to front roof slope. Erection of single storey side/rear extension. Excavation to create basement including formation of rear lightwell. Installation of railings to front boundary'*, without complying with a condition attached to planning permission Ref: 2018/0797 dated 17 April 2018.
- The condition in dispute is No 2 which states that:
The development shall be carried out in accordance with the approved drawings and specifications, unless approved otherwise in writing by the local planning authority.
- The reason given for the condition is:
To ensure a satisfactory standard of development and to allow the local planning authority to review any potential changes to the scheme.

Background

1. The appeal site is a two storey mid-terraced residential property which is situated on the north side of Ashbury Road in a predominantly residential area. It is within the Shaftesbury Park Estate Conservation Area (SPECA). On 17 April 2018 planning permission was granted under reference 2018/0797 for alterations including the erection of a mansard roof extension to the rear roof, installation of two rooflights to the front roof slope. Following completion of the development it was brought to the Council's attention that the development had been carried out without being in accordance with the approved plans.
2. Subsequently, a planning application was submitted to vary condition 2 of planning permission 2018/0797 to amend the ridge detail. That application was refused and the enforcement notice was issued on 22 August 2019 to remedy the alleged breaches of planning control.

Decisions

3. Appeal A is dismissed and the enforcement notice is upheld with a variation.
4. Appeal B is dismissed.

Appeal A on ground (c)

5. The ground of appeal is that there has not been a breach of planning control (for example because planning permission has already been granted or it is permitted development). The appellant contends that there was a difference between the ridge line of the host property and adjoining properties prior to development taking place and the alleged change in the angle of the roof slope is not readily visible and, being too small to be meaningful, does not warrant enforcement action.
6. The photographic evidence before me shows that Nos 6, 8 and 10 Ashbury had a uniform ridgeline before the development took place. It is clear to me that the ridge has been raised and the gradient of the front roof slope has been altered. Both changes are visible from the public realm to the front of the property. Raising the ridge constitutes development under S55 of the Act for which planning permission is required. Such planning permission has not been granted by the local planning authority and the works do not benefit from permitted development rights.
7. The plans approved under planning permission 2018/0797 show that the original roof line would be retained and would match those of the adjoining neighbouring properties. The completed development incorporates an increased ridge line and protruding vents and consequently does not resemble the approved scheme. The drawings submitted by the appellant in support of their case under ground (c) are not approved plans but formed part of application 2018/2260 which sought permission for alterations to the building without complying with condition No 2 of planning permission 2018/0797.
8. The appellant also argues that the vents added to the building are negligible in size and should be considered as de minimis. The vents are only small but materially alter the roofscape of the host property and disrupt the uniformity of the roofscape of the terrace of which the appeal property is part. They are outside of the scope of the planning permission granted and do not benefit from permitted development rights.

9. The appellant states that the two roof lights are in the position and size approved. Furthermore, they are flush-fitting and are in accordance with the approved plans. I do not dispute that is the case, but it is clear from the requirements of the enforcement notice that the rooflight in question is on top of the rear extension.
10. Condition 6 of the approved planning permission requires the rooflights to be in line and flush within the roof pitch that they would be located. With respect to the rear rooflight this is not the case and therefore it is in breach of the approved permission.
11. In the light of the above the appeal on ground (c) fails.

Appeal A on ground (g)

12. The ground of appeal is that time given to comply with the requirements is too short. The works required to comply with the requirements of the notice are significant and given the scale of operations required and the logistics of undertaking such works the three months given would be insufficient to undertake the required operations and remove the debris arising from compliance with the steps. The nine month compliance period suggested by the appellant would be excessive having regard to the continuing ongoing harm caused by the development.
13. Therefore, the period should be extended to ensure adequate time is given to carry out the requirements of the notice to the standard required. In this respect I consider six months would strike the appropriate balance and would not place a disproportionate burden on the appellant. To this limited extent the appeal on ground (g) succeeds.

Appeal B

Main Issues

14. The main issue is the extent to which the development preserves or enhances the character or appearance of the Shaftesbury Park Estate Conservation Area.

Reasons

15. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that with respect to any building or land in a Conservation Area, when considering whether to grant planning permission, special attention should be paid to the desirability of preserving or enhancing the character or appearance of the area.
16. The SPECA includes formally arranged terraces of two storey Victorian terraced houses with a very distinctive character and appearance. Properties within the Conservation Area are largely unaltered since they were constructed in the late eighteenth century. There are some small pockets of more modern development where new buildings replaced those damaged during the Second World War, but nonetheless the area is very well preserved. The front elevation and roof slope and ridge of the terrace which the appeal site is part of is well-preserved. I noted at my site visit that a key feature of the estate is the uniformity of roof slope and design and the remarkable uniformity of important roof features such as terracotta ridge capping. The evidence before me shows

that there have been alterations to the roofs of some properties in the SPECA, but these are exceptions.

17. The appellant contends that the alterations that have been made to the roof have been made to reinstate the original ridge level that had been previously lowered due to subsistence. There is insufficient evidence for me to be confident that this is the case and furthermore, photographic evidence shows that before recent development of the property took place the house was unaltered, sharing a consistent ridgeline with adjoining and wider neighbouring properties and important roof features that make a positive contribution to the character and appearance of the host property and the SPECA. In particular, it is of importance that the roof shared a consistent ridgeline with Nos 6 and 10 Ashbury Road with matching terracotta ridge capping.
18. The front roof slope is clearly visible from the public realm and the alterations that have taken place are visually prominent, having a significant impact on the streetscene. It is particularly noticeable because it is at odds with the uniform roof form of the terrace because it does not follow the established ridgeline and as such it fails to successfully integrate with the remainder of the terrace which retains its original form and detailing. As a consequence of creating a roof form and ridgeline which is inconsistent with Nos 6 and 10 Ashbury Road the development is incongruous within the streetscene and the wider Conservation Area, failing to preserve or enhance its character and appearance.
19. The incongruity of the raised roof ridge is highlighted by the use of lead flashing on the ridge, which is different to, and at odds with, the original detailing that exists on many of the properties in the immediate vicinity of the appeal site, including Nos 6 and 10 Ashbury Road. This detailing is inappropriate given the strongly established roof pattern in the SPECA.
20. Evidence shows that a projecting roof light has been installed on the previously approved mansard roof extension. Furthermore, it appears to be closer to the ridge than shown on the approved drawings. Two vents/flues have also been installed on the main roof slope which are not shown on the approved drawings. As such they are in breach of the approved planning permission. These unauthorised features are visible close to the ridge along the front elevation of the house. Although these are relatively minor additions and breaches to the approved development, they have a cumulative effect of cluttering the roofscape of the property, being harmful to the appearance of the roof and are visibly conspicuous and at odds with the established roof design and relatively uncluttered roofscape in the locality.
21. Given the above, I find that the proposal would fail to preserve the significance of the Conservation Area. Consequently, I give this harm considerable importance and weight in the planning balance of this appeal. Paragraph 193 of the Framework advises that when considering the impact on the significance of designated heritage assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets. Given the harm to the character and appearance of the Conservation Area, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
22. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The

appellant has not presented a clear case that there are public benefits arising from the development. Given the absence of any significant public benefit, I conclude that, on balance, the proposal would fail to preserve the character or appearance of the SPECA.

23. This would fail to satisfy the requirements of the Act, paragraph 192 of the Framework and conflicts with Policies DMS1, DMS2 and DMH5 of the Wandsworth Local Plan Development Management Policies Document Adopted March 2016, guidance within the Housing Supplementary Planning Document Adopted 2016 and the Shaftesbury Park Estate Conservation Area Appraisal and Management Strategy. Among other objectives these seek to ensure that development should ensure that the appearance provides a high quality design and layout that contributes positively to local spatial character and developments should sustain, conserve and, where appropriate, enhance the significance, appearance, character and setting of heritage assets and the surrounding historic environment. Where visible changes to the roof should be sympathetic to the style of the building, not visually intrusive and should not harm either the streetscene or the building's appearance.

Formal Decisions

Appeal A

24. I direct that the enforcement notice is varied by the deletion from paragraph 6 of the words "three (3) months" and the substitution therefor of the words "six (6) months" as the time for compliance with the requirements.
25. Subject to this variation the enforcement notice is upheld.

Appeal B

26. The appeal is dismissed.

A A Phillips

INSPECTOR