



Appeal Decision

Site visit made on 4 July 2020

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 August 2020

Appeal Ref: APP/M5450/C/19/3241958 92 Herga Road, Harrow HA3 5AT

- 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 K Affum against an enforcement notice issued by the Council of the London Borough of Harrow.
 - The enforcement notice was issued on 17 October 2019.
 - The breach of planning control as alleged in the notice is without planning permission: the unauthorised construction of a side to rear dormer on the Land ("Unauthorised Dormer").
 - The requirements of the notice are:
 - 5.1 Demolish the Unauthorised Dormer.
 - 5.2 Make good any damage caused to the Land as a result of the above requirement and ensure that all materials used in making good any damage match those used in the existing building.
 - 5.3 Remove from the Land all materials and debris arising from compliance with the aforementioned requirements of the Notice.
 - The period for compliance with the requirements is Three (3) calendar months after the 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.
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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 have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely a side to rear dormer at 92 Herga Road, Harrow, HA3 5AT referred to in the notice.

Application for costs

2. An application for costs was made by Mr K Affum against the Council of the London Borough of Harrow. This application the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the dormer on the character and appearance of the area.

Reasons

4. The appeal site is located in an area which is generally characterised by terrace housing of similar design which front onto Herga Road. The appeal property comprises a traditional brick-built mid-terrace property with a two-storey outrigger and single storey extension to the rear. The rear of the dwelling is constructed using a mix of render and brick and I saw that the rear of other properties along this section of Herga Road are also constructed using a variety

- of different materials. The appeal site backs onto an industrial yard, beyond which is the railway line. As a result of the depth of the rear garden and the intervening yard and railway line, views of the rear of the building from the public domain are limited and at distance.
5. An L-shape dormer, which is finished in white render, has been constructed above the rear main roof slope and two-storey outrigger on the appeal building. Although it occupies a significant proportion of the rear roof slope, its position to the rear of the dwelling means that there are no significant public views of the dormer. I saw that a roof extension has also been constructed over the outrigger of No 88 Herga Road. The Council confirms within its delegated report that it considers the depth, height and width of the outrigger dormer at No 88 would be achievable under permitted development. Although not identical to the one that has been constructed at the appeal site, its location over the two-storey outrigger and white finish means that it has a similar visual impact to the appeal dormer.
 6. Policy CS1.B of the Harrow Core Strategy (HCS)(2012) seeks to ensure that development reinforces the positive attributes of local distinctiveness and states that extensions should respect their host building, amongst other things. Policy 7.4B of the London Plan (LP)(2016) seeks to ensure that buildings provide a high quality design response that has regard to the pattern and grain of the existing spaces and streets in orientation, scale, proportion and mass. Policy 7.6 of the London Plan states that buildings and structures should comprise details and materials that complement, not necessarily replicate, the local architectural character. Achieving well-designed places is one of the aims of the National Planning Policy Framework (the 'Framework')(2019).
 7. Policy DM1 of the Harrow Development Management Policies Local Plan (HDMPLP)(2013) seeks to ensure that proposals achieve a high standard of design and layout, having regard to roof form, amongst other things. Supplementary Planning Document Residential Design Guide (SPD)(2010) advises that roof alterations and dormer windows should complement the original street character and not dominate buildings or impair their proportions or character. The bulky appearance of the dormer dominates the roof, however, due to its position to the rear of the building with limited public views, any effect on the character and appearance of the area is very limited.
 8. It is not disputed that the appeal scheme is not permitted development. However, the appellant asserts that much of what has been built could be constructed under permitted development and, under ground (f) suggests a reduction in depth to bring it in line with permitted development rights. The Council states that the property no longer benefits from permitted development rights under Article 3(5) and therefore is unable to reduce the size of the dormer to within the tolerances of the GPDO. However, the appellant could demolish the dormer and reconstruct a dormer under permitted development rights, so long as it was within the tolerances set out within the GPDO. Although not specifically mentioned by the appellant, I consider a reasonable alternative fallback would be something similar to that constructed at No 88.
 9. I consider there is a realistic prospect of either fallback being built in the event that the extension was to be removed. As such, these fallback positions carry significant weight. Although the fallback options would occupy a smaller part of the roof slope, as views from the public domain of the dormer are viewed at

distance, either fallback option would have a similar impact on the character and appearance of the area compared with the appeal scheme. Given the above and having regard to the limited visibility of the appeal scheme from the public domain, I conclude that there is no harm to the character and appearance of the area. There would be no conflict with Policies CS1.B of the HCS, DM1 of the HDMPLP, 7.4B and 7.6 of the LP, the SPD or the Framework, the requirements of which are set out above. Thus, for the reasons give above I conclude that the appeal under ground (a) should succeed.

Conclusion

10. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on grounds (f) and (g) does not therefore need to be considered.

M Savage

INSPECTOR