
Appeal Decision

Site visit made on 21 July 2020

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th August 2020

Appeal Ref: APP/J3015/W/20/3250851
28 Queens Road East, Beeston NG9 2GS

- 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 S Baldwin (Top 365 Ltd) against the decision of Broxtowe Borough Council.
 - The application Ref 19/00583/MMA, dated 29 July 2019, was refused by notice dated 31 January 2020.
 - The application sought planning permission to construct a two storey side, single storey rear extension, rear dormer, roof alterations and change of use from dwellinghouse (Class C3) to house in multiple occupation without complying with conditions attached to planning permission Ref 17/00017/FUL, dated 21 March 2017.
 - The conditions in dispute are Nos 2 and 3 which state that: *'The development hereby permitted shall be carried out in accordance with the OS Masterplan at scale 1:1250 and the Block Plan at scale 1:500 received by the Local Planning Authority on 10 January 2017 and amended drawings: 160825:16G and 160825:18G received by the Local Planning Authority on 7 March 2017'* and, *'The extensions shall be constructed using bricks and roof tiles of a type, texture and colour so as to match those of the existing building.'*
 - The reasons given for the conditions are: *'For the avoidance of doubt'* and *'To ensure a satisfactory standard of external appearance and in accordance with the aims of Policy 10 of the Broxtowe Aligned Core Strategy (2004).'*
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The original planning permission¹ consented a variety of extensions and alterations to the appeal property. The Council have highlighted several discrepancies between the plans submitted with this appeal, and what has been built on site. However, it appears to me that none of the highlighted discrepancies fundamentally alter the substance of the Council's objections, which relate to the dormer. This appeal effectively seeks the dormer's retention. As a result of the foregoing, and as the application form states that the appellant seeks approval as per construction, I have considered the appeal based on the development that has been built.
3. The proposal before me seeks to regularise the original planning permission by varying conditions 2 and 3. I also note that the application seeks to vary

¹ Broxtowe Borough Council Planning Ref – 17/00017/FUL

condition 1. However, as the development has already commenced, condition 1 has already been complied with.

Main Issue

4. The main issue is the effect that varying the conditions, to allow the retention of the development as built, would have on the character and appearance of the area.

Reasons

5. The appeal site comprises a semi-detached property which lies in a predominantly residential area. I saw on my site visit that many houses in the area have been altered or extended, including the addition of rear dormers, a number of which are visible from the street. Therefore, the principle of such features is not at issue.
6. However, the dormer has a limited degree of set back from the eaves and roof ridge of the appeal building in comparison with the dormer approved as part of the original planning permission. As such, the rear face of the dormer is of notable height, resulting in a built form which dominates the roof slope. Despite its rear facing position, I could see on my site visit that the dormer is clearly visible in between the houses that lie towards the end of Pelham Crescent. Irrespective of the smaller scale of the window installed in the dormer in comparison with that permitted, as a result of the size and prominent elevated position of the dormer, it appears unduly dominant and conspicuous in the street.
7. The prominence of the dormer is exacerbated by the use of white PVCu cladding on the main face and cheeks of the dormer. Condition 3 of the original planning permission states that *'extensions shall be constructed using bricks and roof tiles of a type, texture and colour so as to match those of the existing building'*. Whilst I appreciate that the existing building includes white PVCu doors, windows and fascias, it is clearly constructed of red-brick and tiles, thus the PVCu clad dormer breaches the requirements of condition 3. Even if the appellant altered the facing materials so as to match the materials used in the construction of the existing building, I find that the overtly bulky appearance of the dormer represents a visually discordant and disharmonious addition to the detriment of the character and appearance of the area, which would not be adequately mitigated by the use of alternative materials.
8. The appellant has drawn my attention to several other rear dormers within the area, a number of which are visible from surrounding streets. I do not have full details of each to know whether planning permission was required for them and, if so, the reasons why permission was granted. In any event, Policy 17 of the Broxtowe Borough Council Part 2 Local Plan 2018-2028 (adopted 2019) (Local Plan Part 2) requires that new dormers do not dominate the roof, and I find that the dormer at the appeal site is contrary to this Policy.
9. The Council's reason for refusal also relates to the impact on the amenity of neighbouring properties. However, the Council's officer report confirms that there is no unacceptable impact on the living conditions of neighbours due to the dormer, and I agree. Nevertheless, this does not diminish the extent of the harm identified to the area's character and appearance.

10. For the foregoing reasons, the amendments proposed to conditions 2 and 3 of the original permission, to vary the scale and appearance of the dormer from that approved, would unacceptably harm the character and appearance of the area. Therefore, the development is in conflict with Policy 10 of the Broxtowe Borough, Gedling Borough, Nottingham City Aligned Core Strategies Part 1 Local Plan (2014) and Policy 17 of the Local Plan Part 2, which, in summary, require that development contributes to the character and appearance of the area having regard to local context, whilst also ensuring that dormers do not dominate the roofscape.

Other Matters

11. The appellant contends that the dormer was permitted development at the time it was constructed, as the property was in use as a residential dwelling, although this is contested by the Council. In any event, it is outside the scope of this appeal to determine the validity of historic permitted development rights for the appeal property. Consequently, this matter carries limited weight, insufficient to outweigh the conflict with the development plan I have identified.
12. I have considered that the larger dormer is required in order to provide acceptable levels of head height and meet Building Regulations. However, this consideration does not justify a development which is contrary to the development plan and harmful for the reasons set out.

Conclusion

13. I therefore conclude that, for the reasons given, the appeal is dismissed.

Matthew Woodward

INSPECTOR