



Appeal Decision

Site visit made on 6 July 2020

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 August 2020

Appeal Ref: APP/R5510/C/19/3234895

23 The Vale, Ruislip HA4 0SG

- 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 Donna Loye against an enforcement notice issued by the Council of the London Borough of Hillingdon.
 - The enforcement notice, numbered ENF/FA/015456, was issued on 10 July 2019.
 - The breach of planning control as alleged in the notice is the erection of a hip to gable roof enlargement and rear dormer roof extension.
 - The requirements of the notice are:
 - (i) Demolish the unauthorised hip to gable and rear roof extension and reinstate the roof to its condition prior to the commencement of the unauthorised works, matching as far as reasonably practicable, the same height, slope and appearance of the original dwelling as illustrated in existing plans named 'as Existing Plans and Elevations', numbered '1364/P/01 Rev A', attached to Certificate of Lawful development Application Reference 7029/APP/2018/1692.
 - (ii) Remove from the Land all debris, waste, building materials, fixtures and fittings, plant equipment and machinery resulting from the demolition works listed in (i) above.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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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 the erection of a hip to gable roof enlargement and rear dormer roof extension at 23 The Vale, Ruislip HA4 0SG as shown on the plan attached to the notice, subject to the following conditions.
 1. The development hereby permitted shall be carried out in accordance with the following approved plans: 19/0519/01 and 19/0519/02, both annotated 'Loft conversion appeal plans' and dated 30.09.19
 2. The materials used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing dwelling.

Procedural matters

2. The Council adopted the London Borough of Hillingdon Local Plan Part 2 - Development Management Policies in January 2020 (LP 2020), after the notice

was issued. The new LP (2020) has superseded the saved policies of the previous Hillingdon Unitary Development Plan (1998).

3. In these circumstances, I am required to determine the appeal against the current development plan for the area at the time of my decision. The Council have confirmed that they consider the new policies pertinent to this appeal are DMHD 1, DMHB 11 and DMHB 12, and further advise that DMHD 1 replaces the Residential Extensions Supplementary Planning Document which has been withdrawn.

Main Issue

4. I have had regard to the reasons why the Council issued the enforcement notice and consider that the main issue is the effect of the development on the character and appearance of the original dwelling and the area, and whether any identified harm is outweighed by other material considerations.

Ground (a) – The deemed application

Character and appearance

5. The starting point for this appeal is the development plan, which is the basis on which appeal decisions are made. Therefore, any determination to be made under the Planning Acts must be made in accordance with the plan, unless material considerations indicate otherwise.
6. The appeal site is located to the north of The Vale in a primarily residential area. The immediate area is characterised by semi-detached bungalows and two storey houses of varying design, set generally within modest plots. The appeal site is located close to the head of the cul de sac known as the Vale. It comprises one half of an attractive pair of semi-detached bungalows, with the garden mainly sited to the rear and side. There is a shared 'eyebrow window' to the front elevation.
7. The development has introduced a hip to gable alteration to the roof and a large flat roof dormer to the rear of the property. The hip to gable alteration has extended the ridge towards the north. Whilst this has altered the appearance of the pair of bungalows, the orientation of the property beyond the head of the cul de sac, means that the extended roof line is generally not apparent in the wider street scene. The shared eyebrow window has been retained and this helps to retain the symmetry of the pair of bungalows. I therefore do not find that the hip to gable alteration has caused unacceptable harm to the character and appearance of either the host dwelling, or the wider area.
8. The rear dormer is however large. It has a flat roof at a similar height to that of the main ridge. It is not readily visible from the highway, but it can be seen from the rear of the properties in West Mead and at an oblique angle from No 25 The Vale. Rear dormers are commonly found in residential areas and will often be visible from nearby properties. However, despite being set back from the boundary with No.21, its scale and design has nonetheless increased the size, width and bulk of the roof. This results in it appearing bulky and dominant, when compared to the architectural design of the original dwelling.
9. For the above reasons, whilst I do not find that the hip to gable element of the development has caused harm, I do find that the rear dormer has resulted in

the roof appearing overly large and dominant, failing to harmonise with the original dwelling and the wider area. Accordingly, I find that the rear dormer extension causes harm to the character and appearance of the area and conflicts with Policies DMHD 1, DMHB 11 and DMHB 12 of the LP (2020). These policies when taken together, provide guidance on the most common forms of householder development and seek to ensure that new development is of good design that harmonises with the local context and integrates into the surrounding area.

Material considerations

10. On 05/04/2018, a Lawful Development Certificate (Ref 7029/APP/2018/490) (LDC) was granted for the conversion of roof space to habitable use to include a rear dormer, 3 front roof lights and conversion of roof from hip to gable end with a new gable end window. The development that has been built, and is subject to the appeal, is slightly larger than that proposed by the LDC. As the resultant volume now exceeds 50 square metres, express planning permission is required.
11. The two schemes are broadly similar in both scale and design. The appellant in her evidence clearly sets out the reasons for these alterations, so I shall not repeat them in full here. In summary, the changes resulted in the dormer being moved slightly further up the roof slope. It was also moved away from the boundary with No 21. The base of the gable was extended to the rear.
12. Although the rights conveyed by the Town and Country Planning (General Permitted Development) Order 2015 cannot be achieved retrospectively, there have been no intervening changes to the Order that would suggest that the same development would not now be permitted. The appellant makes it clear that in the event of the appeal being dismissed, then she would undertake the remedial works required, to make the development comply with the LDC. I have no evidence to suggest that, on the balance of probability, the remedial works would not be physically possible. This being the case, I consider that the existence of the LDC represents an obvious alternative, and there is a greater than theoretical possibility, that the development proposed in the LDC would be carried out. As such, it is material consideration to which I attach significant weight.
13. It is important to note that the enforcement regime seeks to be remedial rather than punitive. The differences between the permitted scheme, and the development before me, are minor. Whilst I acknowledge that the rear dormer will be seen, the changes between the scheme permitted by the LDC and that before me, are not visible in the street scene and would be barely noticeable from other properties in the area. It therefore follows that they do not cause significant additional harm to the character and appearance of the host dwelling or the area.
14. For the above reasons, whilst I have found that the rear dormer causes some harm to the character and appearance of the host property and the wider area, the previously permitted LDC represents a material consideration, that in my judgement, outweighs the harm I have identified. Accordingly, the appeal on ground (a) succeeds.

Other matters and conditions

15. I have carefully considered the representations that have been made by local residents. In summary some of these relate to concerns about the appearance of the rear dormer, which I have already addressed above.
16. Others relate to overlooking of gardens and properties to the rear from the dormer roof extension. The Council have not included overlooking in their reasons for issuing the notice. Nonetheless, it is an understandable concern. However, the scheme permitted by the LDC, also gave a similar level of overlooking of the houses and back gardens to the rear of the site. I am not persuaded that the slight repositioning of the dormer has affected the position, such that the appeal should be dismissed.
17. I have considered the condition suggested by the Council for details and samples of the materials, colours and finishes to be used on all external surfaces to be submitted and approved by the local planning authority. The Council have not suggested a time frame for the submission of these details or why such a detailed condition is required, given that the development has already been carried out. Nonetheless, in the interests of protecting the character and appearance of the area, I consider that a condition is necessary which requires the materials used to match those of the existing building. I have also imposed a condition that specifies the approved plans, as this provides certainty.

Conclusion

18. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice.

Hilary Orr

INSPECTOR