



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: 6 August 2020

Appeal Ref: APP/M5450/C/19/3237166

37 Priory Way, Harrow HA2 6DQ

- 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 Abdul Aziz Haqdad against an enforcement notice issued by the Council of the London Borough of Harrow.
 - The enforcement notice, numbered ENF/0256/19/P, was issued on 12 August 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a first floor side extension and loft conversion comprising of rear dormer and gable end (Unauthorised Development); and the construction of a rear canopy (Unauthorised Canopy).
 - The requirements of the notice are:
 1. Demolish the Unauthorised Canopy.
 2. Demolish the Unauthorised Development or build in accordance with the approved plans attached to planning permission P/1687/15.
 3. Make good any damage caused to the building as a result of the above requirements and ensure that all materials used shall match those used in the existing building.
 4. 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.
-

Summary of Decision

1. The appeal succeeds in part and permission for that part is granted, but otherwise the appeal fails, and the enforcement notice is upheld with variations, as set out below in the formal decision.

Procedural Matter

2. The appellant has appealed under grounds (a), (f) and (g), however, from the evidence submitted it appears that the matters raised by the appellant constitute a hidden ground (c). The Council has responded to the matters raised by the appellant in this regard and so I am satisfied that there would be no prejudice to either party by my consideration of ground (c).

Ground (c)

3. An appeal made under ground (c) is made on the basis that there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development"). The appellant asserts that the roof extension was lawfully constructed and that the first floor side extension was constructed to plan, except where alterations were unavoidable, due to the existing hip to gable roof extension.

4. The Council issued a certificate of lawful development in 2015, reference P/1685/15, confirming that proposed alterations to roof to form end gable and rear dormer, installation of three rooflights in front roof slope and new window in side would be permitted by the Town and Country Planning (General Permitted Development) Order 2015. The appellant states that, following permission being granted, the hip to gable roof extension was constructed, together with the rear dormer.
5. Planning permission was granted in 2015 for a first floor side extension, reference P/1687/15. The permission was subject to a number of conditions, including a plans condition which required the development to be carried out in accordance with approved plans and documents. The appellant states that construction of the first floor extension followed construction of the hip to gable roof and rear dormer. However, the Council has provided photographic evidence which indicates that the first floor side extension and gable end and rear dormer were constructed in one operation.
6. The development was not built in accordance with plans approved under P/1687/15 and the dormer has a volume which exceeds the tolerances set out within the Town and Country Planning (General Permitted Development) Order 2015. This therefore constitutes development for which planning permission is required and is not permitted development, nor is it granted by planning permission P/1687/15. Accordingly, the appeal under ground (c) fails.

Ground (a)

Main Issue

7. The main issue of the appeal is the effect of the appeal scheme on the character and appearance of the area.

Reasons

8. The appeal property is located in a generally residential area characterised by semi-detached dwellings with hipped roofs. I saw that a number of properties have been modified with hip-to-gable conversions. Designs vary, which has resulted in a lack of uniformity of roof design, though hipped roofs are still the dominant roof type along the street. No 37 Priory Way is a semi-detached dwelling which has been extended to create a part gable, part hip roof. The gable end section is finished in white render, whilst the hipped roof is finished in red tile.
9. 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 DM1 of the Harrow Development Management Policies Local Plan (HDMPLP)(2013) seeks to ensure that proposals achieve a high standard of design and layout.
10. Policy 7.4B of the London Plan (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).

11. Paragraph 6.69 of the adopted Supplementary Planning Document: Residential Design Guide (SPD)(2010), states that the preferred form of roof alteration to semi-detached or terraced houses is the extension of a hipped roof to form a gable with the addition of a rear roof extension (or rear dormer window). The extension to the appeal dwelling is neither hipped nor gable, rather it is a combination of the two, contrary to the SPD.
12. The appellant has drawn my attention to other properties along Priory Way which have been modified. Whilst there are a variety of roof designs along Priory Way, roofs are generally either hipped or gable. The exposed gable section of the extension is a particularly prominent feature due to the use of white render which contrasts with the red roof tile. Although approved application P/1687/15 would have a similar roof height to the appeal scheme, its hipped roof design would look very different when viewed from the direction of Parkside Way.
13. Whilst I saw that distant views of the gable section along Priory Way are restricted, it is nonetheless clearly visible from the public domain. The hipped roof of the approved scheme would complement the local architectural character whereas the extension as built, with its combination of dormer and gable design, is an incongruous feature which fails to respect or complement the local architectural character. This is harmful to the character and appearance of the area, contrary to Policy CS1.B of the HCS, DM1 of the HDMPLP, Policy 7.4B and 7.6 of the LP, the SPD and the Framework, the requirements of which are set out above.
14. To the rear of the dwelling a wooden canopy with corrugated plastic sheeting has been constructed. Although the structure extends above the adjacent fence and is therefore visible from the adjacent property, due to its modest height, limited bulk and location to the rear of the dwelling, it is not an obtrusive feature, nor are there significant views from the public domain. As a consequence, it does not harm the character and appearance of the area. There is therefore no conflict with Policy DM1 of the HDMPLP or Policies 7.4B and 7.6B of the LP in this regard, the requirements of which are set out above.

Conclusion: Ground (a)

15. Thus, for the reasons give above I conclude that the appeal should succeed in part only, and I will grant planning permission for the canopy to the rear, but otherwise I will uphold the notice and refuse to grant planning permission for the first floor side extension and loft conversion comprising of rear dormer and gable end. The requirements of the upheld notice will cease to have effect so far as inconsistent with the permission which I will grant by virtue of s180 of the Act.

Ground (f)

16. An appeal under ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. It is clear from the requirements, that the purpose of the notice is remedy the breach by making the development comply with the terms of the planning permission which has

been granted or by restoring the land to its condition before the breach took place.

17. The appellant requests that the steps are amended to allow the retention of the first floor side extension and loft conversion comprising of a rear dormer and gable end. However, as set out above, the ground (a) has failed in respect of this part of the breach. The requirements fall within the purpose of S173(4)(a) of the 1990 Act and are therefore not excessive. Consequently, the ground (f) appeal fails.

Ground (g)

18. An appeal under ground (g) is made on the basis that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed. The appellant requests that the time period is increased to 6 months to allow the appellant time to raise the funds to carry out the demolition and remedial works to a high standard. The Council disputes that additional time should be allowed, given the time that has already lapsed and advises it considers the period of time given in the notice to be both proportionate and reasonable.
19. Whether the appellant decides to comply with the terms of planning permission P/1687/15 or demolish the unauthorised works, the works would need to be carried out by a builder and would be potentially disruptive to occupants of the property. I consider that a period of 6 months would be a more reasonable time period as this would give the appellant sufficient time to appoint a builder to carry out the works and make any necessary arrangements in terms of the living accommodation. I shall therefore vary the terms of the enforcement notice accordingly.

Formal Decision

20. The enforcement notice is varied by the deletion of 'three (3)' in relation to the time period for compliance at Schedule 6 and the substitution of 'six (6)' as the period for compliance.
21. The appeal is allowed in part and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for part of the development already carried out, namely the construction of a rear canopy on land at 37 Priory Way, Harrow HA2 6DQ, referred to in the notice.
22. Otherwise the appeal is dismissed and the notice is upheld. Planning permission is refused on the application deemed to have been made under S177(5) for the construction of a first floor side extension and loft conversion comprising of rear dormer and gable end.

M Savage

INSPECTOR