
Appeal Decisions

Site visit made on 21 July 2020

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3RD NOVEMBER 2020

Appeal A: APP/N4720/C/19/3239955

Appeal B: APP/N4720/C/19/3239956

12 Stanmore Hill, Burley, Leeds LS4 2PW

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Waid Dad (Appeal A) and Mrs Nadia Dad (Appeal B) against an enforcement notice issued by Leeds City Council.
 - The enforcement notice, numbered 19/00015/HMO3, was issued on 9 October 2019.
 - The breach of planning control as alleged in the notice is, without planning permission, the enlargement of a front dormer window to dwelling house.
 - The requirements of the notice are either (1) cease the use of the enlarged unauthorised dormer window to the front and remove it completely from the property, putting back the roof using materials matching those on the original dwelling house; or (2) cease the use of the enlarged unauthorised dormer window to the front and return it to its previous size as shown on the existing plan, reference 1209-PP-002-A dated 14 October 2019.
 - The period for compliance with the requirements is six months beginning with the day on which this notice takes effect.
 - The appeals are proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.
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Decision – Appeals A and B

1. The appeals are dismissed and the enforcement notice is upheld.

Procedural matters

2. An appeal against the Council's refusal to grant a Certificate of Lawful Use or Development for the use of the appeal premises as C4 House in Multiple Occupation is the subject of a separate Decision¹.
3. I have noted the appellants' view that measurements of the floor space associated with the dormer window should be taken as part of the appeal process. However, the floor space is not referred to in the Council's reasons for issuing the notice and is not relevant to the appeals on ground (f). Accordingly, it was not necessary for me to take measurements and I carried out an unaccompanied site visit. I am satisfied this will not have caused injustice.

The appeals on ground (f)

4. For the appeals to succeed on this ground, it must be demonstrated that the steps required to comply with the notice are excessive and that lesser steps

¹ APP/N4720/X/19/3239895

could overcome the breach of planning control alleged in the notice, which is the enlargement of the front dormer window.

5. I saw on my visit and from photographs provided by the appellants that numerous dwellings on Stanmore Hill and nearby roads have large dormer windows comparable to the enlarged dormer window on the appeal premises. The appellants have also drawn my attention to another Inspector's decision to allow a dormer extension to the front of 61 Woodside View² and dispute the requirement to remove or reduce their dormer extension, which they say was copied from a nearby example and done on the professional advice of their architect. However, an appeal³ against the Council's decision to refuse planning permission for the dormer window has been dismissed and an appeal on ground (a), that planning permission should be granted for it, is not before me and therefore I cannot give weight to these matters.
6. The appellants suggest that replacing the dormer window's UPVC cladding would improve its design and examples of dormer windows in the area clad with vertical slates or painted timber have been provided. However, this improvement would still leave the dormer window enlarged, without planning permission, so the breach alleged in the notice would not be overcome.
7. The only ways of overcoming the breach of planning control before me are those set out in the notice, of either removing the dormer extension and re-instating the roof or returning the dormer extension to its previous size. Consequently, the requirements of the notice are not excessive, and the appeals should not succeed.

Conclusions

8. For the reasons given above, I conclude that the appeals should not succeed. I have upheld the enforcement notice.

Mark Harbottle

INSPECTOR

² APP/N4720/A/08/2062230, allowed 8 April 2008

³ APP/N4720/W/19/3225897, dismissed 10 July 2019