



Appeal Decisions

Site visit made on 4 December 2020

by **Laura Renaudon LLM LARTPI Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 05 January 2021

Appeal Ref: APP/E5330/C/20/3248523 ("Appeal A") 100 Southwood Road, Eltham, London SE9 3QS

- 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 Dr Bharat Patel (of Meadowcroft Lodge Limited) against an enforcement notice issued by Royal Borough of Greenwich Council.
- The enforcement notice was issued on 13 February 2020.
- The breach of planning control as alleged in the notice is *Without planning permission, the erection of five dormers to the rear and side roof elevations.*
- The requirements of the notice are:
 - (i) To permanently remove the five unauthorised dormers to the rear and side roof elevations;
 - (ii) To return the roof to its original form; and
 - (iii) To permanently remove all debris and spoil created as a result of the above steps from the Property.
- The period for compliance with the requirements is four months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld.

Appeal Ref: APP/E5330/W/20/3245438 ("Appeal B") 100 Southwood Road, Eltham, London SE9 3QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Dr B Patel against the decision of Royal Borough of Greenwich Council.
- The application Ref 19/3204/F, dated 11 September 2019, was refused by notice dated 4 December 2019.
- The development proposed seeks retrospective planning permission for the erection of five dormers to the rear and side elevations to facilitate the enlargement of the second floor residential unit.

Summary Decision: the appeal succeeds in part and permission for that part is granted, but otherwise the appeal is dismissed.

Preliminary Matter

1. The Council's reasons for issuing the notice included that it appeared to them that the operational development complained of had occurred within the last 10 years. This may potentially have affected the appellant's decision whether to appeal on ground (d) which would concern whether the relevant limitation period for taking enforcement action had expired. In the event each of the parties confirmed that the development had occurred within the four years prior to the issuing of the notice (and I saw from my site visit that the development was not yet completed). Therefore I am satisfied that an appeal on ground (d) would not have succeeded and thus no prejudice has arisen.

Main Issue

2. The development in each of the appeals is the same, and the Council's reasons for issuing the enforcement notice were nearly identical to those for refusing planning permission. The Council's concern is with the effect of the development on the character and appearance of the host property and the area, and that is therefore the main issue in the appeals. A further issue arising on Appeal A is whether the period specified in the enforcement notice for complying with its requirements falls short of what should reasonably be allowed.

Reasons

Appeal B and the Appeal A appeal on ground (a)

3. 100 Southwood Road is a detached Victorian building having the appearance of a large dwelling house but undergoing renovation works to facilitate its use as seven self-contained flats. Permission was recently granted to extend the property to the rear so to reconfigure the accommodation on the ground and first floors. In the event works were also carried out to enlarge the second, roof, floor consisting of the insertion of five dormer windows (there having previously been a single dormer to the property's western elevation) to the sides and rear, enabling the provision of a three-bedroomed flat rather than the single bedroomed flat that is said to have existed previously. It is these dormers for which retrospective permission is now sought.
4. The appellant cites a number of factors in favour of the development, pointing out that the provision of a family dwelling, by virtue of the three bedrooms, is supported by local housing mix policy H2 and suggesting also that the dormer roof extensions would, if the property remained in use as a single dwelling house, amount to permitted development. Neither of these points is disputed by the Council but I give them little weight in my deliberations. As to the first point, there is no evidence before me as to the extent of any shortage of family housing in the borough. As to the second, there is no evidence before me of any prospect of the building reverting to use as a single dwelling house or of any intention to extend it by adding dormer windows if that were the case.
5. The appellant also adverts to planning permissions for other dormer windows in the vicinity, and invites me to find that dormer roof extensions of the kind built here are a common feature of surrounding roofscapes. In addition, the appellant contends that the obscure glazing of the kitchen window dormers to the western roof offers a privacy advantage over the previous position.
6. Relevant planning policy concerning design and character is found in the London Plan (2016) policies 7.4 and 7.6, and in policies DH(a) and DH1 of the Royal Greenwich Local Plan Core Strategy with Detailed Policies (2014), supplemented by the Council's Residential Extensions, Basements and Conversions Guidance (2018), particularly its chapter relating to roof extensions (paragraph 5.42 et seq). Together these policies and guidance require positive design that respects the scale and character of buildings and the surrounding area.
7. The flat-roofed dormers that have been installed are each red tile-hung, in contrast to the grey tiles of the roof slopes, with white fascia boards and dark guttering above. At the time of my visit the windows had mostly yet to be

installed, although I saw that the openings were rather larger than those seen on the similar neighbouring property at no. 102. The Council does not take issue with the materials but is concerned that the dormers constitute dominant and incongruous additions to the property by reason of their number, scale and bulk. I agree. Taken together overall the sheer number and size of the dormer windows result in an awkwardly top-heavy building that detracts from the character of the neighbourhood. This is so notwithstanding the limited, or lack of, visibility of some of the dormers from public vantage points.

8. The two dormer windows that have been installed either side of the ridge of the rearward gable ('the gable dormers') are particularly dominant in this respect, appearing to protrude above the ridge of the hipped side outrigger, and rather dwarfing the rear gable end. These gable dormers largely facilitate the provision of an additional bedroom, by allowing the creation of a staircase and small corridor leading to a room in the apex of the roof. I do not consider that the provision of an additional room of living or sleeping accommodation justifies the harm caused to the physical appearance of the building by these extensions, which I find to be contrary to the planning policies cited above.
9. The western of these dormers also provides additional space for the kitchen area below; however, the notice's requirements to return the roof to its original form would appear to allow for the reinstatement of the previous dormer said to have existed on the western roof slope. If that is not the case then the 'kitchen' window is not the only window available to this open-plan room of the flat and the internal arrangements could readily be reconfigured if necessary. Although the present kitchen window is obscure glazed, unlike the predecessor dormer in approximately the same position, I do not consider that this potential privacy advantage is sufficient to outweigh the harm caused by the size of the dormer that has now been installed.
10. As to the three dormers that comprise the window openings to the separate room to the rear eastern part of the roof, I do not consider these to be so harmful as to warrant dismissing the appeal in respect of them if considered separately from the western dormers. They sit within, and subordinate to, their respective roof slopes without unduly overawing the building, and with the removal of the western rearward gable dormers the property would become one of reasonable proportions that is not too top-heavy. I find in respect of these three easternmost dormers that the character and appearance of the property and the area would not be harmed so as to conflict with the relevant planning policies to which I have referred.
11. Therefore I shall issue a split decision in relation to the section 78 appeal, allowing the appeal in relation to the 3 easternmost dormers and dismissing it in relation to the 2 westernmost ones, after upholding the enforcement notice on the section 174 appeal (subject to my findings on ground (g) below). This will have the effect, by reason of section 180(1) of the 1990 Act, of superseding the requirements of the enforcement notice in respect of the elements for which I grant permission.
12. Although the Appeal B application is described as retrospective, I saw at my site visit that some elements await completion. Therefore I shall grant permission on a part-retrospective basis, and impose a 'plans' condition on the permission I shall grant.

The Appeal A appeal on ground (g)

13. Much of what the appellant says in respect of ground (g) was not borne out by the situation at my site visit; namely, the appellant's principal justification for seeking more time to comply is that the dormer extensions are to flats occupied by tenants on assured shorthold tenancies. The appellant refers to the time that possession proceedings might take, to the limited financial means of the tenants, and the difficulty in finding alternative accommodation. However, at the time of my site visit the upper floor was unoccupied and construction works to the property were still under way. There appear to be no tenants to evict. This being the case I see no good reason to extend the period for compliance of four months. The appellant refers to the difficulty in finding reliable tradesmen but a four month period is not unreasonable especially where, as here, works are currently ongoing. Therefore the appeal on ground (g) does not succeed.

Formal Decisions

Appeal A

14. The appeal is dismissed and the enforcement notice is upheld.

Appeal B

15. The appeal is dismissed insofar as it relates to the two westernmost dormer extensions constructed either side of the rearward gable. The appeal is allowed insofar as it relates to the remaining dormer extensions, consisting of two dormers constructed in the eastern (side) roof slope and one dormer constructed in the northern (rear) roof slope, and part-retrospective planning permission is granted for the construction of three dormer extensions to the eastern and northern roof slopes of 100 Southwood Road, London SE9 3QS in accordance with the terms of the application ref 19/3204/F dated 11 September 2019 and the plans submitted with it so far as relevant to that part of the development hereby permitted, subject to the following condition:

- (1) The development hereby permitted shall be carried out in accordance with plans 1940-01 Rev A and 1940-02 Rev A (each dated August 2019 and prepared by T Joseph Associates Limited) insofar as those plans relate to the permission hereby granted but excluding those parts for which permission is refused.

Laura Renaudon

INSPECTOR