



Appeal Decisions

Site visit made on 1 December 2020

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2021

Appeal A Ref: APP/L5810/D/20/3249397

38 Westmoreland Road, Barnes, London SW13 9RY

- 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 Ms Penny Walker against the decision of the Council of the London Borough of Richmond-upon-Thames.
- The application Ref 19/3873/HOT, dated 21 December 2019, was refused by notice dated 20 February 2020.
- The description of development for which permission was sought is:
Alterations to roof ridge, rear and front dormers.

Summary Decision: Appeal A succeeds in part and permission for that part is granted, but otherwise the appeal is dismissed, as set out in the Formal Decision.

Appeal B Ref: APP/L5810/C/20/3252441

38 Westmoreland Road, Barnes, London SW13 9RY

- 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 Ms Penny Walker against an enforcement notice issued by the Council of the London Borough of Richmond-upon-Thames.
- The enforcement notice was issued on 15 April 2020.
- The breach of planning control as alleged in the notice is: Without planning permission and within the past 4 years the erection of:
 - (a) a second floor front dormer extension and a second dormer extension including the raising of the lower ridge height
 - (b) a first floor rear extension comprising alterations to the fenestration and recladdingThe requirements of the notice are:
Either:
 - (a) remove the front and rear dormer roof extensions and return the roof of the Property to its condition prior to the breach of planning controlOr:
 - (b) modify the front and rear dormer roof extensions so that they fully accord with the approved drawings pursuant to planning permission ref: 18/0168/HOT (and varied by 19/1468/VRC)
- The period for compliance with the requirements is 5 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) 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.

Summary Decision: Appeal B succeeds in part and permission for that part is granted, but otherwise the appeal fails, and the enforcement notice is upheld as corrected in the terms set out below in the Formal Decision.

Preliminary Matters

1. For Appeal A, the description of development in the heading above has been taken from the planning application form. The decision notice contains a different description. But there is no evidence that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
2. Section 4 of the application form indicates the development has been carried out and is complete and this is consistent with my observations at my site visit.
3. For Appeal B, I have corrected a misdescription in the breach of planning control alleged, to make clear the "second dormer" extension referred to is the "rear dormer" extension. I am satisfied I am able to do this, drawing on my powers under section 176(1)(a) of the 1990 Act noted above, without causing injustice to either the appellant or the Council.

Reasons

The section 78 appeal and the ground (a) appeal

4. Evidence indicates the front and rear dormers on the appeal property have been constructed larger than as previously approved and that the roof ridge has a different profile. I have dealt with the appeals on this basis.
5. Based on the reasons in the Council's decision notice and enforcement notice, the main issue in these appeals is the effect of the roof alterations and roof extensions on the character and appearance of the area.

The front dormer

6. The appeal property is one of a semi-detached pair of homes which sit within a wider group of semi-detached pairs on one side of the street. Viewed from the street, this group appear to have been originally built to match, with prominent symmetrical roof forms including a large front hipped roof feature.
7. The Council's House Extensions and External Alterations Supplementary Planning Document 2015 (the SPD) states that the Council will avoid roof extensions in the front of a house and that it is undesirable to add a roof extension (including dormers) to the front of a house. Nevertheless, the Council has previously approved a small front dormer on the front roof slope of the appeal property, pursuant to planning permission ref: 18/0168/HOT, dated 13 April 2018, noting that other front dormers are part of the street scene including one at the adjoining property.
8. The front dormer which has been constructed is substantially taller and wider than that which was approved. It includes a long apron and thick cheeks. Consequently, it appears as a dominant feature. The dormer is set up from the eaves and leaves part of the roof unobstructed. But it is significantly larger than the front dormer seen on the adjoining property and so viewed from the street it has the effect of unbalancing the otherwise symmetrical roof form of the semi-detached pair of which it forms part. As such it appears incongruous.
9. I note the appellant states they have reduced the height of the front dormer. But having seen the front dormer since this change, my assessment above is no different. The appellant states that the adjoining property could apply to enlarge its front dormer to restore the balance between the two properties. But

there is no certainty of this happening nor any evidence of any mechanism to secure the delivery of such a development.

10. There are examples of other front dormers in the area. But there is no evidence they are of a comparable size or design as the front dormer before me, or that they are on a property which is comparable in terms of the character and appearance of the group the appeal property forms part of, identified above.
11. The appellant proposes to replace the tiles on the front dormer with slate tiles to match the existing roof. But this would not address the harm identified above. I conclude the front dormer harms the character and appearance of the area. This does not comply with Policy LP1 of the Local Plan 2018 or, as a result of its dominance, the SPD noted above.

The rear dormer

12. The Council has previously approved a large rear dormer on the appeal property, pursuant to the 2018 planning permission noted above. When the Council considered that application, it acknowledged that large rear dormers are prevalent in the area and that as such a strict application of the requirements in the SPD is not necessary. At that time, the Council also noted that a large rear dormer was approved under current policies at the adjoining semi-detached property and having a similar dormer in size would, in this instance, restore some balance and symmetry in the pair of houses.
13. However, the dormer which has been constructed is significantly larger than the dormer on the adjoining property and significantly larger than that which was approved on the appeal property. In particular, viewed from the rear, to its left side it extends to the property boundary and to the eaves line. As such it appears full width, full height and leaves no part of the original rear roof slope visible. Consequently, the rear dormer changes the shape of the roof of the appeal property completely. It is a dominant and disproportionate addition which appears completely unbalanced with the adjoining property in the semi-detached pair.
14. My attention has been drawn to other rear dormer extensions in the area. However, based on the information available to me, those referred to at 27, 29, 31 and 35 Westmoreland Road, 28 and 32 Gerard Road, 10 Melville Road and 34 Lowther Road, cannot be seen within the context of the rear dormer at the appeal site. So I give them limited weight in my decisions.
15. The rear dormer extensions at 62 Westmoreland Road and 5 Gerard Road are on properties situated on a different block entirely. Being this far away, I am not satisfied they provide justification for the rear dormer on the appeal property either, in light of the harm identified above.
16. I have also been referred to rear dormer extensions at 15, 21, 27 and 29 Melville Road, to the rear of the appeal site and in particular, the reasoning of a previous Inspector for an appeal at No 15 in 2008. The previous Inspector commented that a loss of symmetry at roof level on Melville Road would be largely screened in public views. But there is no evidence that the key determinative development plan policy now in place, Policy LP 1, draws a distinction between public and private views.
17. Moreover, that Inspector's comments in 2008 were in relation to a specific group of houses identified on Melville Road. So I am not satisfied the

Inspector's reasoning in that appeal should be applied now to the appeal site in the case before me, given it is on a different road and given a new development plan has been adopted since. The rear dormer extension on the appeal property is plainly visible in views from neighbouring properties around it to the rear. So being screened from public views does not justify the appeal development's complete change to the shape of the roof and its unbalancing effect, described above.

18. Based on the information provided, the comments I have been referred to in relation to a rear dormer at No 21 were made specifically in relation to Melville Road as it was in 2005. The rear dormer at No 27 was assessed in relation to what was said to be identical development on the adjoining property at No 25 in 2007. The rear dormer at No 29 was granted over 20 years ago, in 1999. As such, I do not consider any of these examples are directly comparable to the appeal development before me, which I must consider in light of the current policy context, so I give these other dormers limited weight in my decisions.
19. The use of zinc or similar for the rear dormer material was identified on plans the Council approved. So I have no reason to find this external facing material unacceptable for the rear dormer, even taking into account its larger size. Notwithstanding this, for the other reasons set out above, I conclude the rear dormer harms the character and appearance of the area. This does not comply with Policy LP1 of the Local Plan 2018 or, as a result of its dominance, the SPD noted above.

The roof ridge alterations

20. In its reports, the Council states that the raising of the ridge was previously approved and remains acceptable. So I have no reason to consider as unacceptable the roof ridge alterations which are the subject of either appeal. Accordingly, I conclude the roof ridge alterations do not harm the character or appearance of the area. I therefore find no conflict with Policy LP1 of the Local Plan 2018 or the SPD noted above in respect of this part of the appeal developments.

Other Matters

21. I appreciate the appeal site is not within a conservation area. But this makes no difference in terms of the policy identified in the decision notice or enforcement notice. My attention has been drawn to the Barnes Character Area Village Planning Supplementary Planning Document 2016. Roof extensions may not be identified within this document as a threat to the character of the area. But this does not justify the rear or front dormer in light of the harm identified above.

Conclusion on the section 78 appeal and the ground (a) appeal

22. For both appeals, the front and rear dormers are severable parts of the development. So whilst the appeal on ground (a) and the section 78 appeal succeed in respect of the roof ridge alterations, they both fail in respect of the front and rear dormer.

The ground (f) appeal

23. Under section 173(4) of the 1990 Act, when serving an enforcement notice on operational development the Council may seek to (a) remedy the breach by

making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land or by restoring the land to its condition before the breach took place; or (b) remedy any injury to amenity which has been caused by the breach.

24. Based on the alternative requirements of the notice, the purpose of the notice is to remedy the breach, ie pursuant to section 173(4)(a). In respect of the front dormer, the proposed replacement of its tiles would not remedy the breach. So no lesser steps have been suggested that would achieve the purpose of the notice. Cost is not a reason to consider the requirements of the notice excessive and whether an appellant is personally at fault or not makes no difference. As such, the appeal on ground (f) fails.

Conclusions

25. For the reasons given above I conclude that Appeal A is allowed in part and dismissed in part, as set out in my formal decision. For the reasons given above I conclude that Appeal B succeeds in part, and I grant planning permission for the raising of the lower ridge height and a first floor rear extension comprising alterations to the fenestration and recladding. But otherwise I uphold the notice with a correction and refuse to grant planning permission in respect of a second floor front dormer extension and a rear dormer extension. The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I grant by virtue of section 180 of the Act.

Formal Decisions

26. Appeal A is dismissed insofar as it relates to the front dormer and rear dormer. Appeal A is allowed insofar as it relates to the alterations to the roof ridge. Planning permission is granted for the alterations to the roof ridge, at 38 Westmoreland Road, Barnes, London SW13 9RY, in accordance with the terms of the application, Ref 19/3873/HOT, dated 21 December 2019, and the plans submitted with it, so far as relevant to that part of the development hereby permitted.
27. It is directed that the enforcement notice is corrected by deleting "second dormer" from the breach of planning control alleged and its substitution with "rear dormer". Subject to this correction, Appeal B is allowed insofar as it relates to the raising of the lower ridge height and a first floor rear extension comprising alterations to the fenestration and recladding, 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 raising of the lower ridge height and a first floor rear extension comprising alterations to the fenestration and recladding, at 38 Westmoreland Road, Barnes, London SW13 9RY.
28. Appeal B is dismissed and the enforcement notice is upheld as corrected insofar as it relates to the second floor front dormer extension and rear dormer extension and planning permission is refused in respect of the second floor front dormer extension and rear dormer extension on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

L Perkins

INSPECTOR