



Appeal Decision

Site visit made on 25 May 2021

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 07 June 2021

Appeal Ref: APP/N4720/C/21/3269603

33 Willans Avenue, Rothwell, Leeds LS26 0NF

- 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 Andrew Fuller against an enforcement notice issued by Leeds City Council.
- The enforcement notice was issued on 29 January 2021.
- The breach of planning control as alleged in the notice is the erection of a dormer to the rear.
- The requirements of the notice are:
Step 1 – Demolish the unauthorised dormer entirely.
or
Step 2 – Reconstruct the dormer and replace the materials to the extent necessary to enable it to be reconstructed as such that it falls under permitted development.
Step 3 – Remove from the site any resulting material, rubbish and equipment arising from compliance with Steps 1 or 2.
- The period for compliance with the requirements is three 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 of Decision: The appeal is dismissed and the enforcement notice is upheld with a variation.

The appeal on ground (a)

1. The ground of appeal is that planning permission should be granted. The main issue is the effect on the character and appearance of the area.
2. The appeal site comprises a semi-detached residential property situated on a residential street in Rothwell. To the rear of the site is an industrial area. The property is set back from the highway with some off street parking to the front and a driveway to the side and to the rear is a substantial rear garden area. At my site visit I noted that some properties in the locality have been extended and altered in various ways.
3. I understand that under reference 20/03920/FUL planning permission was refused for a single storey side/rear extension, hip to gable roof extension and a dormer window to the rear. However, the appellant erected the rear roof dormer without permission in order to provide an additional bedroom. Externally, the dormer has dark coloured external faces, a small window and doors which serve a Juliette balcony which incorporates a glass balustrade. I noted that the external materials used do not match the existing roof on the property.

4. The dormer window covers a very significant amount of the rear roof slope and the large dormer feature on the rear elevation of the property dominates and is a visually incongruous feature at odds with the established pattern of development in the locality. Its overall bulk, scale and dominance is out of scale with the host property and this effect is exacerbated by the expanse of solid surfacing and the pattern of openings which is at odds with the host dwelling.
5. The host property is relatively modest in terms of its overall scale, but the large dormer is highly visually prominent. As part of a pair of semi-detached houses, the development unbalances the roofscape and rear elevation to the detriment of the established character of the pair. I recognise that there is some variety in the design of roofs in the locality, but dormer roofs of this size, design and materiality are not part of the existing established pattern. As such it erodes the attractive residential character of the wider area. I have taken account of the hip to gable alteration that has been implemented and recognise that such development has had an effect on the design and appearance of the roof, but that does not alter my view that the rear dormer is particularly visually harmful.
6. Wider views of the dormer from the rear may be obscured from the industrial area by trees but from the rear garden of the host property and others in the vicinity the development is highly prominent. I do not agree with the appellant's comment that the effect on the rear elevation should not be a determining factor in this case.
7. My attention has been drawn to the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) with respect to additions etc to the roof of a dwellinghouse under Class B, Part 1 to Schedule 2. The appellant contends that a dormer of similar scale and proportions could be built without the need to obtain permission from the Local Planning Authority and that should be given weight as a fallback position.
8. It may be the case that a dormer could be built under permitted development rights and this is indeed recognised by the Council in the requirements of the Notice. Step 2 includes the option to reconstruct the dormer and replace the materials to the extent necessary to enable it to be reconstructed as such that it falls within permitted development allowances. This would require the use of matching materials and modifications to the design of the dormer which would improve its overall physical appearance. Nonetheless, the dormer is unacceptable as it stands. It is clear to me that the Council's objection to the development goes wider than concerns with respect to the materials used, but also the expanse of solid surface, massing, lack of glazing and its dominance and overall bulky appearance.
9. The appellant argues that the dormer is sustainable development as defined in the National Planning Policy Framework (the Framework) because there are no significant adverse environmental impacts that would outweigh the presumption in favour of sustainable development. However, given the harm to the character and appearance of the area identified above I consider there is environmental harm and therefore dispute the assertion that the dormer represents a form of sustainable development.
10. My attention has been drawn to other examples of dormers and other roof extensions and alterations in the locality and I saw some of these during my

site visit. In particular details of the development at 100 Willans Avenue have been submitted by the appellant, but I do not have the specific details of the circumstances that led to others and so cannot be sure they represent a direct comparison with the appeal case, including with respect to development plan policy. I understand the appellant's comments with respect to the similar scheme at No 100, but that proposal was determined to be permitted development by the Council. The current scheme before me is clearly not permitted development for reasons including the materials used. In any case, I have determined this appeal on ground (a) on its own merits taking account of the specific circumstances of the development, the site and the development plan.

11. Therefore, I conclude that the development is harmful to the character and appearance of the area. As such it conflicts with saved Policies GP5 and BD6 of the Leeds UDP Review – Volume 1: Written Statement Adopted July 2006, Policy P10 of Leeds Core Strategy adopted November 2014, Policy HDG1 of the Householder Design Guide Supplementary Planning Document April 2012 and the Framework. Among other objectives these seek to achieve high quality design that is appropriate to its location, scale and function and all extensions should respect the scale, form, proportions, character and appearance of the main dwelling and the locality

The appeal on ground (g)

12. The ground of appeal is that the time given to comply with the requirements is too short. The three calendar months given would be sufficient to comply with the requirements and the twelve months compliance period suggested by the appellant would be excessive given the ongoing harm caused by the dormer. However, given the ongoing Covid-19 pandemic restrictions and associated potential delays in carrying out the works to the property, I consider the period should be extended to enable the appellants adequate opportunity to comply with the requirements. In this respect I consider six months would strike an appropriate balance and would not place a disproportionate burden on the appellant. To this limited extent the appeal on ground (g) succeeds.

Formal Decision

13. I direct that the enforcement notice is varied by the deletion from paragraph 6 of the words "three months" and the substitution therefor of the words "six months" as the time for compliance with the requirements.
14. Subject to this variation the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

A A Phillips

INSPECTOR