
Appeal Decision

Site visit made on 9 September 2021

by Richard S Jones BA (Hons), BTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2021

Appeal Ref: APP/H5390/C/21/3269393

15 Wulfstan Street, London, W12 0AA

- 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 Mrs D Smith against an enforcement notice issued by the Council of the London Borough of Hammersmith & Fulham.
 - The enforcement notice was issued on 11 January 2021.
 - The breach of planning control as alleged in the notice is, without planning permission, the construction of a rooflight on the front roofslope.
 - The requirements of the notice are:
 - a) Remove from the land the rooflight on the front roofslope and return the roof to the original condition prior to the unauthorised works.
 - The period for compliance with the requirements is six 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. 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.
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Decision

1. It is directed that the enforcement notice is varied by the deletion of 6 months and the substitution with eight months for the time for compliance.
2. Subject to the 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 Town and Country Planning Act 1990 as amended (the 1990 Act).

Preliminary Matters

3. As the revised National Planning Policy Framework (NPPF) came into force on 20 July 2021, the parties have been offered opportunity to comment on any matters considered relevant to the case. No response was received.

The Appeal on Ground (a) and the Deemed Planning Application

Main Issue

4. The main issue is the effect on the character or appearance of the area and the Old Oak and Wormholt Conservation Area (the Conservation Area).

Reasons

5. The appeal site is located within the Old Oak Estate Sub Area of the Conservation Area, as defined by the Hammersmith and Fulham Character Profile. The special interest of the area is derived, amongst other things, from its historic street pattern and the planned garden suburb layout of high quality early twentieth century public housing.
6. The appeal dwelling sits within a small terrace laid out along a staggered building line fronting onto Wulfstan Street where the distinctive 'cottage garden' character and garden suburb architecture is typified by the domestic scale of the housing, attractive red brick elevations (save for the appeal property), red tile hipped roofs and the verdant street scene derived from the front gardens and street trees.
7. The appellant states that planning permission has been granted for numerous other rooflights, including on the adjacent property. However, no evidence has been provided to that effect. The Council refer to two similar rooflights that it says do not have planning permission but were installed over four years ago and are now immune from enforcement action.
8. Although I saw that there are other examples of properties with front rooflights, they are not numerous as suggested. Indeed, it is striking how intact and unimpaired the roofscape is along the street. The Council's Character Profile also refers to roofscapes in those features from which the special interest of the Conservation Area is derived. In my judgement, the consistency of the roofscape contributes significantly to the overall quality of the street scene and the special interest of the Conservation Area.
9. I saw that the alleged rooflight is prominently positioned, close to the ridgeline. Its black frame appears to sit proud of the roof plane and stands out against the red roof tiles. Moreover, because the roof slope in this part of the terrace is closest to the road, the rooflight is more prominent than that installed in the adjoining property, where the roof is stepped back according to the staggered building line.
10. Within the context I have described, the alleged rooflight disrupts the uniformity and consistency of the roofscape. As a result, it undermines the quality of the roofscape and causes harm to the character and appearance of the street scene.
11. The appellant states that one additional rooflight does not adversely affect the broader Conservation Area but that argument could be repeatedly applied. Moreover, the small number of existing rooflights do not represent precedents that should be followed but rather serve to highlight how the harm to the roofscape could be easily compounded.
12. For these reasons, I find that the rooflight fails to preserve or enhance the character or appearance of the Conservation Area, the desirability of which is anticipated by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990, Policy DC8 of the Hammersmith and Fulham Local Plan (February 2018) (LP), Key Principle CAG2 and CAG3 of the Hammersmith and Fulham Planning Guidance Supplementary Planning Document (February 2018) and the National Planning Policy Framework (the NPPF). I also find conflict with LP Policies DC1 and DC4, which state, amongst other things, that development

should create a high quality urban environment that respects and enhances its townscape context and heritage assets.

13. The NPPF expects that great weight is given to the conservation of heritage assets irrespective of whether that harm is substantial or less than substantial. In this case I conclude that the development leads to less than substantial harm to the Conservation Area taken as a whole. In such circumstances the NPPF requires that any identified harm is weighed against any public benefits the development might secure.
14. I note that the appellant states that the rooflight enables use of the loft space for much needed accommodation and that it reduces reliance on artificial lighting. Notwithstanding that the former is essentially a private benefit, together the benefits do not justify the harm caused by the rooflight or prevail over the great weight that should be given to the conservation of the heritage asset.
15. I appreciate that the appeal has attracted no objection but that does not negate my duty under s72 to pay special attention to the desirability of preserving or enhancing the character and appearance of the area.
16. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should fail on ground (a) and the deemed planning application should be dismissed.

The Appeal on Ground (g)

17. The ground (g) appeal is that the six months given to comply with the notice is too short.
18. However, a period of 12 months, as suggested by the appellant, is disproportionate having regard to the nature and extent of the works and as such is unjustified. Nevertheless, having regard to the effects of the COVID-19 pandemic, I acknowledge that it may take longer than usual to procure the services of a contractor and extending the period for compliance to eight months would strike a reasonable and proportionate balance between any difficulties the appellant may encounter and the public interest in this case.
19. I shall therefore vary the enforcement notice accordingly prior to upholding it. The appeal on ground (g) succeeds to that extent.

Richard S Jones

INSPECTOR