



Appeal Decision

Site visit made on 4 October 2021

by Baljit K Muston BA(Hons) PGDip MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2021.

Appeal Ref: APP/P3610/D/21/3278037

12 Northey Avenue, Cheam SM2 7HR

- 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 Mr N Smith against the decision of Epsom & Ewell Borough Council.
 - The application Ref 20/01913/FLH, dated 24 December 2020, was refused by notice dated 16 April 2021.
 - The development proposed is alterations to the roof to replace the existing front roof section with a replacement pitched roof, the conversion of the roof void to create habitable accommodation and the construction of a new dormer to the rear elevation.
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Application for Costs

1. An application for costs was made by Mr N Smith against Epsom & Ewell Borough Council. This application is the subject of a separate decision.

Decision

2. The appeal is allowed and planning permission is granted for alterations to the roof to replace the existing front roof section with a replacement pitched roof, the conversion of the roof void to create habitable accommodation and the construction of a new dormer to the rear elevation, at 12 Northey Avenue, Cheam SM2 7HR, in accordance with the terms of the application, Ref 20/01913/FLH, dated 25 December 2020, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2201, 2210, 2211, 2220.

Main Issues

3. The main issues are the effect of the proposed development on:-
 - the character and appearance of the area; and
 - the living conditions of the occupiers of adjacent residential properties, with particular regard to overlooking.

Reasons

Character and appearance

4. The appeal property is a detached two storey house on the southern side of Northey Avenue, set amongst other similar houses, and backing on to open land. Opposite the site is a church of modern design, with a prominent zinc roof.
5. The proposal would introduce a large dormer window into No 12's rear facing roofslope. However, it was clear from my site visit that this would not be visible from any public viewpoint, but only from the rear gardens of No 12 and other nearby houses. I also noted that there are two other large dormers on the rear elevations of other houses on the same side of the road, a little further to the east. Whilst the proposed dormer is large, and would not be set down from the top of the roof, it would not look out of place in this setting.
6. The Council has drawn my attention to its adopted Supplementary Planning Guidance for Householder Applications (SPG). The proposal would not comply with a number of the recommendations in that document. However, this SPG is of some age, having been adopted in January 2004. As a result, it fails to take account of the current permitted development (PD) rights for dormer windows. These PD rights have led to a large number of large dormer windows on rear elevations, being constructed on houses across the country, without the need for planning permission.
7. The appellant argues that the appeal proposal only requires planning permission because the cheeks of the dormer would be clad with zinc, thereby not matching an existing material on the property. As a result, the appellant argues that a 'fallback' position exists, of an identical dormer window to the appeal proposal being constructed under PD rights, but with cheeks clad in tiles rather than zinc.
8. However, the Council, in its response to the costs claim, argues that, although it would be possible to erect a similar sized dormer window to the appeal proposal under PD rights, gaining access to it from the floor below would require the alterations to the roof at the front of the property, which do require planning permission. The stated 'fallback' position of an identically sized dormer being constructed under PD rights is therefore unlikely to take place.
9. Whilst the appellant's argued 'fallback' position may be unlikely to take place for this reason, the Council has accepted that, on its own, a dormer window of the size proposed would not need planning permission on the appeal property. Dormers of this size, and very often in much more prominent positions than would be the case here, are being built all over the country under current PD rights. It does not seem appropriate to require the appeal proposal to slavishly follow guidance set out in SPG that is over 17 years old, when I have concluded above that the proposed dormer would not look out of place in this location.
10. I have considered whether the use of zinc is in itself objectionable in this location. However, the dormer cheeks would not be prominent and, in any event, the church opposite the appeal site has a prominent zinc roof. In this context, the use of zinc to clad the cheeks of the dormer would be acceptable.
11. I do not consider that the proposed dormer window would cause undue harm to the character or appearance of the area, and it is my view that this outweighs

the fact that the proposal does not comply with the advice contained in the SPG.

12. The Council also objects to the proposed rooflights, on the basis that they protrude above the existing roof. However, the degree of protrusion is small and, given their location, it would be almost impossible to see them from anywhere in the area.
13. I also agree with the Council that the other element of the appeal scheme, the proposal to replace the existing front roof section of the existing flat roof with a pitched roof, would be acceptable. Indeed, it would enhance the appearance of the property within the street scene.
14. I therefore conclude that the proposal would not have an unacceptably adverse effect on the character or appearance of the area, and would comply with Policy CS5 of the Core Strategy (2007) and Policies DM9 and DM10 of the Development Management Policies (2015) in this respect. These policies, amongst other things, expect development proposals to respect roof form and typical details, building materials and design detailing of elevations.

Living conditions

15. The proposed dormer window with Juliet balcony would provide an additional vantage point from which the occupiers of No 12 could overlook the rear gardens of their neighbours on either side. It would also be at a higher level than existing rear facing windows. However, I noted on my site visit that the existing rear bay window at first floor level is closer to the boundary with No 14 than the proposed dormer would be, and includes a window looking directly towards that property's rear garden. In addition, the proposed dormer is central to the appeal property, so not close to the boundaries with neighbours on either side. In the circumstances, I do not consider that any additional overlooking of adjoining gardens that did take place would be unacceptable.
16. I conclude that the proposal would not have an unacceptably adverse effect on the living conditions of the occupiers of adjacent residential properties, with particular regard to overlooking, and would comply with Policy CS1 of the Core Strategy (2007) and Policy DM10 of the Development Management Policies (2015) in this respect. These policies, amongst other things, expect development proposals to have regard to the amenities of neighbours, including in terms of privacy.

Conditions

17. Standard conditions are required relating to when the development should commence and compliance with the approved plans.

Conclusion

18. For the reasons set out above, I conclude that the appeal should be allowed, subject to the conditions set out above.

Baljit K Muston

INSPECTOR