



Appeal Decisions

Site visit made on 5 April 2022

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 May 2022

Appeal A Ref: APP/N4720/C/21/3288768

Appeal B Ref: APP/N4720/C/21/3288769

12 Easterly Cross, Harehills, Leeds LS8 3PB

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Mohammed Saddique (Appeal A) and Ms Fazal Jan (Appeal B) against an enforcement notice issued by Leeds City Council.
- The enforcement notice was issued on 17 November 2021.
- The breach of planning control as alleged in the notice is Without planning permission, the raising of the eaves and ridge of the original house and the erection of a dormer to the rear.
- The requirements of the notice are Step 1 Dismantle and remove the unauthorised rear dormer window; Step 2 Reduce the height of the elevation walls to their height prior to the unauthorised roof alterations taking place; Step 3 Reinstate the roof to its condition prior to the unauthorised roof alterations taking place; Step 4 Remove all debris as a result of the above.
- The period for compliance with the requirements is Six months.
- The appeals are proceeding on the grounds set out in section 174(2)(a) (Appeal A only) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeals are dismissed and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.

The appeal on ground (a)

Main Issue

1. The appeal is that planning permission should be granted. The main issue is the effect of the development on the character and appearance of the original building and the street scene.

Reasons

2. The appeal site is one of a pair of semi-detached houses, located in a short cul de sac of similarly designed properties. The street is within a predominantly residential, suburban part of the city. Although the cul de sac slopes so that the floor level and apparent height of the houses vary in relation to one another, their two-storey height, predominantly hipped roof design and positioning around the street still gives the buildings a sense of uniformity and symmetry.
3. The appeal site itself is offset from the spine road, to one side of the head of the cul de sac. Therefore whilst not immediately visible from the cul de sac

entrance, being situated at the highest part of the street it is nevertheless very prominent from further along the road.

4. Notwithstanding the use of similar materials, the development because of its raised eaves, ridge and hip to gable extension appears at odds with the design of the adjoining dwelling, disrupting the symmetry between the two and the predominant building form of the wider street scene.
5. The rear dormer is large in scale, filling almost the entire width of the original roof plane, with only a marginal gap separating it from eaves level. I concur with the Council that it appears as a dominant and 'top-heavy' feature, that fails to respect the design of the original dwelling.
6. The dormer is visible from distance along St Wilfrid's Avenue, through gaps between buildings. However from here it is set well back away from the street. Seen in the context of other rear dormer extensions, from this perspective it does not draw the eye as an obtrusive feature. This however does not overcome the harm that I have identified above.
7. I conclude that for the above reasons the development results in harm to the character and appearance of the original building and the street scene. It is therefore in conflict with Policy P10 (i) of the Leeds Core Strategy 2014; Policies GP5 and BD6 of the Leeds Unitary Development Plan Review 2006 and with the National Planning Policy Framework insofar as they seek to secure high quality design and in particular extensions that respect the design of the original building and that are appropriate to the location.
8. I also find the extension to be in conflict with Policy HDG1 of the Council's Householder Design Guide 2012 which seeks extensions to respect the scale, form, proportions, character, and appearance of the main dwelling and the locality, and to avoid harm to character and appearance. It specifically states that dormers should be set in from the sides, down from the ridge and up from the eaves, and that they should not dominate the roof plane.
9. I have considered the appellant's point that the harm could be overcome if the adjoining dwelling were to be similarly extended, and both properties rendered in the same materials, so as to restore the design balance. However I note that a planning application to achieve this outcome was subsequently withdrawn and, in any event, there is no legal mechanism before me for consideration that could be used to require this to happen.
10. Reference has been made to other loft conversions being carried out, using permitted development rights. Whilst this may be the case, this does not justify the extension in this case, in relation to which there is no suggestion that it is permitted development.
11. I have also taken into account that neighbouring houses to the rear are apparently occupied by members of the appellant's extended family, and that there have been no objections raised against the development. Notwithstanding this, I have a statutory duty to consider the impact of development, even when no specific objection from third parties has been forthcoming.
12. The appellant has set out that the extension was to make desperately needed additional space available for his growing family, and in particular the increase to the height of the roof was to allow for more comfortable headroom in light of

relatively low ceiling heights. I am sympathetic to the personal circumstances of the family. However at the same time I must give very careful consideration to the Council's objective of managing building design throughout the city, in the context of national policy which seeks to achieve well designed places in which to live and work. On balance I am not persuaded that the appellant's personal circumstances are sufficiently compelling to justify setting aside the Council's design policies. The appeal on ground (a) therefore fails.

The appeals on ground (g)

13. The appeals are that the time given for compliance with the notice falls short of what should reasonably be allowed. The appellants' case is that the requirements will result in disruption and inconvenience, particularly as one of the occupiers of the property is elderly and has health related issues. Also time is needed to get the necessary resources to finance the remedial work.
14. I acknowledge that the nature of the work required is likely to result in significant disruption to the family's living conditions. However I am also mindful that effective enforcement is important to maintain public confidence in the planning system. I consider that extending the compliance period to 9 months would be proportionate in this case. The ground (g) appeals therefore succeed to this limited extent.

Conclusion

15. For the reasons given above, I conclude that the ground (a) appeal should not succeed. I shall uphold the enforcement notice, with a variation, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decisions

16. It is directed that the enforcement notice be varied by the deletion of the words "Six months" in paragraph 6 and the substitution of the words "Nine months" instead.
17. Subject to this variation, the appeals are 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.

Roy Merrett

INSPECTOR