
Appeal Decisions

Site visit made on 14 June 2022

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 04 July 2022

Appeal Ref: APP/N5090/C/22/3290864 ('Appeal A')

3 Glenmere Avenue, London NW7 2LT

- 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 Despina Pavlou against an enforcement notice issued by the Council of the London Borough of Barnet.
- The enforcement notice, numbered ENF/0528/21, was issued on 14 December 2021.
- The breach of planning control as alleged in the notice is *Without planning permission, the construction of roof extensions including the construction of a rear dormer window, the raising of the ridge height of the original roof and the construction of gables to the sides.*
- The requirements of the notice are to restore the roof to its original state and to permanently remove from the property all constituent materials.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary Decision: the appeal is dismissed and the enforcement notice upheld.

Appeal Ref: APP/N5090/D/21/3289851 ('Appeal B')

3 Glenmere Avenue, London NW7 2LT

- 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 Despina Pavlou against the decision of the Council of the London Borough of Barnet.
- The application Ref 21/5338/RCU, dated 5 October 2021, was refused by notice dated 1 December 2021.
- The development proposed is described in the Council's decision notice as a roof extension involving raising of the ridge height rear dormer window with juliette balcony and 3no front facing rooflights (Retrospective Application).

Summary Decision: the appeal is dismissed.

Main Issue

1. The main issue arising in the appeals is the effect of the development on the character and appearance of the host property and the surrounding area. Other matters are also raised in representations, which I shall consider below.

Reasons

Character and appearance

2. The Local Plan policies cited in the notice and in the Council's decision letter refusing planning permission, policies CS5 and DM01, together require

development proposals to relate appropriately to their context and to preserve the character and appearance of their local area. Policies D4 and D5 of the London Plan, also cited in the notice, require the delivery of good and inclusive design.

3. The Local Plan is supported by a Residential Design Guide, adopted as a supplementary planning document, which gives specific advice on householder developments such as extensions and alterations. New developments should reflect existing building lines and rhythm of the street, with consideration given to matters such as roof pitches and requiring that hip-to-gable roof extensions should not result in a gable appearing overbearing or out of character within the streetscape.
4. The document provides that proposed extensions should be consistent with the form, scale and architectural style of the original building, particularly where it is a period or (as here) suburban property. Consistency can be achieved by respecting the proportions of the existing house and by using an appropriate roof form. Any extension should normally be subordinate to the original house, should not be overly-dominant, and its height should normally be lower than the height of the original building. Dormer roof extensions should normally be subordinate features on the roof and should not occupy more than half the width or depth of the roof slope.
5. The host property here consists of a detached (originally; now linked) dwellinghouse with a wrap-around single storey extension. It lies in quite a prominent position towards the southern end of Glenmere Avenue, readily visible on the approaches, particularly when ascending Hillside Grove from Copthall Drive.
6. Works have been undertaken to add a further useable storey to the property, by carrying out alterations to change the pre-existing hipped roof to one with gable ends and a ridge line parallel to the road, with a flat-roofed extension behind. The flat roof extends to the width of the original (unextended) dwellinghouse, sitting slightly below the ridge line which itself has been raised by almost a metre to accommodate the development. This has had the appearance of increasing the pitch of the front roof slope.
7. The local topography is rather hilly, with Glenmere Avenue falling gently to its junction with Hillside Grove which itself is considerably steeper. The resulting ridge line of the roof at no. 3 appears a little taller than that of the neighbouring property at no. 5 but considerably taller than the other neighbour at no. 1. There are differing designs and roof heights in the neighbourhood, and the ridge line of the resulting development is not in itself necessarily unacceptable. However, it does lack proportion. The effect of the raising of the ridge is to produce an unbalanced appearance of the house, with a roof that is now altogether disproportionate in height to the façade of the dwelling that sits below it.
8. As to the rear appearance, although this might technically amount to a dormer, as alleged in the notice, the occupation of almost the entire roof by the rear extension results in an appearance of a flat-roofed three-storey building. The rear façade of the third storey appears considerably taller than the second storey below it, resulting in a top-heavy appearance and one that lacks a subordinate relationship with the host property.

9. The development is essentially a third storey extension to the dwelling, disguised to some degree at the front by the new pitched roof. However, the building is read three dimensionally from different viewpoints in the area, and its mass and form overall produce a discordant feature. In particular, the rear and side elevations of the resultant development are disproportionate in their design approach relative to the host building, resulting in an overbearing roof form lacking architectural respect for the host building or its neighbours.
10. The resultant building is therefore significantly out of character and appearance in this local suburban context, and contrary to the design policies of the Local and London Plans, and to the Council's Residential Design Guide.
11. The quality of the materials used in the development is of a high standard, and relates appropriately to the existing dwelling. However this in itself is insufficient to overcome the objections arising from the disproportionate scale of what has been achieved. I have had regard to other developments in the vicinity, including those where building heights have been raised, in some cases with ridge lines above pre-existing chimney heights. There are also some examples of full-width rear dormer windows. However, none of these examples were sufficient to persuade me that the development here is of an appropriate character or appearance to the pre-existing house or to the surrounding area.

Other matters

Lack of intention

12. The development appears to have proceeded without any personal intention by the appellant to breach planning regulations. Whilst 'intentional unauthorised development' may in some cases be a material planning consideration counting against a development, there is no equivalent Ministerial Statement or other policy or guidance to suggest that any lack of wilful intent should count in its favour. I am conscious that the difficult circumstances culminating in this appeal have been stressful, and I have every sympathy with the appellant's predicament which I accept appears to have arisen through no fault of her own. I am also conscious that complying with the steps required by the notice will inevitably result in some disruption or discomfort to the household as building works are carried out. However, these are private matters that are not, in my judgement, considerations of sufficient weight to overcome the harm or to justify a decision otherwise than in accordance with the provisions of the development plan for the area.

Permitted development rights

13. Whilst no appeal has been brought under ground (f) against the enforcement notice, which would be to say that the requirements of the notice exceed what is necessary to remedy the breach of planning control, my attention is nonetheless drawn to the existence of permitted development rights that could permit a development of a lesser scale.
14. It is contended that the scale of the works carried out have been necessary in part to meet the requirements of Building Regulations to achieve sufficient internal headroom. Thus it is unclear to me what development might realistically be carried out under permitted development rights, which would not appear to allow the raising of the roof from its pre-existing height.

15. In any event there is no lesser scheme before me to consider. In such circumstances I am unable to consider relaxing the requirements of the notice, because any such relaxation would still need to specify with precision what steps are required to be taken, and without any proposal I am unable to do that. Therefore I shall not amend the requirements. This does not prevent further discussions between the parties to the appeal or affect the Council's ability to waive or relax the requirements of the notice in future.

Effects on living conditions of neighbours

16. Representations have been received to the effect that the development impinges on the light or privacy available to the occupants of neighbouring properties. For the same reasons as those given by the Council, I do not consider that the development results in any significant adverse effects on neighbouring living conditions, and these concerns do not justify an additional reason to dismiss the appeals.

Conclusion

17. For the reasons given above I conclude that the appeal should not succeed. In relation to Appeal A I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application, and in relation to Appeal B I shall dismiss the appeal.

Formal Decisions

Appeal A

18. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

19. The appeal is dismissed.

Laura Renaudon

INSPECTOR