
Appeal Decisions

Site visit made on 22 August 2022

by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2022

Appeal A Ref: APP/N5090/C/21/3281203

53 Cyprus Avenue, London N3 1SS

- 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 Saul Zaidman against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The enforcement notice, numbered ENF/0081/21, was issued on 29 July 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission, the construction of a rear dormer roof extension, and a roof light to the front roofslope.
 - The requirements of the notice are: (1) Restore the roof to its original state prior to the current breach in planning control by removing the rear dormer roof extension and rooflight to the front roofslope and restoring the roof to its original specification with tiles to match the existing. This roof restoration should be in line with the drawing plan reference number, P/20/046/002 (Revision C) of application reference, 20/2955/HSE. (2) Permanently remove from the property of all constituent materials resulting from the works in (1) above.
 - The period for compliance with the requirements is 6 months after the notice takes effect.
 - 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.
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Appeal B Ref: APP/N5090/D/21/3279892

53 Cyprus Avenue, London N3 1SS

- 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 & Mrs S Zaidman against the decision of the Council of the London Borough of Barnet.
 - The application Ref 21/2419/RCU, dated 28 April 2021, was refused by notice dated 30 June 2021.
 - The development proposed is a roof extension involving rear dormer window and 1 No. front facing rooflight.
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Decision in Relation to Appeal A

1. It is directed that the enforcement notice be corrected by:
 - the deletion of the words "to the front roofslope" after the word "rooflight" in the description of the breach at section 3 and the substitution with the following words "in the side facing roofslope of the roof above the two-storey front gable"; and
 - the deletion of the words "to the front roofslope" immediately after the word "rooflight" in requirement 1 at section 5 of the notice and the substitution

with the following words “in the side facing roofslope of the roof above the two-storey front gable”.

2. Subject to these corrections the appeal is dismissed and 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.

Decision in Relation to Appeal B

3. The appeal is dismissed.

Procedural Matters

4. Two appeals are before me, one made against the Council’s decision to issue an enforcement notice and one against the decision to refuse to grant planning permission. As set out in the banner heading above, I have referred to the Appeals as Appeal A and Appeal B.
5. Although the enforcement notice refers to a rooflight ‘to the front roofslope’ the rooflight, as constructed, is in the side facing roofslope of the two-storey front gable. Having sought clarity with the parties, I am satisfied that no injustice will arise if I correct the description of the breach to make clear that the notice relates to that side facing rooflight. I have considered the appeal accordingly.
6. The position of the rooflight shown on the submitted plans in relation to Appeal B is different to the position of the rooflight, as constructed. The plans submitted with the application depict the rooflight in the main body of the front facing roofslope, set back behind the gable. The application form in relation to Appeal B only referred to the rear dormer window. However, the Council altered the description of development to include the front rooflight. However, on inspection, the rooflight shown is in exactly the same position as that previously approved by the Council under previous application reference 20/2955/HSE¹. Given that the appellant did not actually apply for permission for the rooflight in the application relating to Appeal B and the fact that the rooflight shown already benefits from planning permission, I have not considered it to form part of the appeal proposal. Consequently, in relation to Appeal B I have considered the rear dormer only.
7. Given that the rear dormer shown on the plans in relation to Appeal B is exactly the same as that referred to in the enforcement notice I have considered the planning merits of both appeals together in the reasoning below.

Reasons

Appeal A on Ground (a) and Appeal B

8. The appeal property, which is locally listed, is a semi-detached dwelling situated within the Finchley Garden Village Conservation Area (the CA) which covers a small pocket of early twentieth century housing, laid out and designed on the principles of the Garden City movement. Consistent with the Arts and Crafts influence, roughcast render, brickwork and handmade clay tiles are the predominant walling and roofing materials, with regular use of hanging tiles or timber boarding in the projecting gables and bays.

¹ Approved drawing No. P/20/046/003 Revision C

9. The dwellings are set around an attractive village green. In combination, the design of the houses and the verdant setting gives the estate a rustic, semi-rural, quality that is notably distinct from the surrounding suburban estates. Save for a few exceptions the original design and appearance remains largely unaltered such that the CA provides an intact and evocative example of the Garden City movement.
10. The prominent projecting bays and gables, sweeping rooflines and tall chimneys are integral to the Arts and Crafts style and add significant visual interest. Village Road gently curves as one passes the appeal site, taking account of the gradient of the land and this produces a staggered building line where the rooflines and projecting gables are particularly prominent. The careful alignment of the road with surrounding contours appears to be a deliberate design choice which creates a pleasing rhythm.
11. The dwelling itself has an attractive and steeply pitched two-storey gable to the front, with associated bay window and distinctive hanging tiles to the front elevation in the recess. The attached neighbouring dwelling is of similar design but with subtle differences in the design of the bay. Both are reflective of the prevailing style and make a positive contribution to the CA and account of their appearance and prominent position as one enters the CA from the east.
12. The Council's Finchley Garden Village Design Guidance (2013) (the DG) notes that dwellings within the development were not originally constructed with dormer windows or rooflights and that such additions can dramatically alter the character of dwellings as a result. The DG states that dormers on prominent roofslopes are unlikely to be considered acceptable. That is not the case in this instance because the dormer is at the rear of the property. Although the rear backs onto the Windsor Open Space the intervening mature tree planting is such that public views are extremely limited.
13. Nonetheless, the character of the CA is derived not just from public vantage points but from the collective design ethos which runs through the estate as a whole. The DG does not rule out the possibility of dormer windows in non-prominent positions but states that they should be in proportion to the design of the roof without dominating elevations; centred on the first floor window below; and of a design that harmonises with the architectural style of the property. Those design principles are soundly based, given the importance of roof design to the character of the CA.
14. In this instance, the dormer sits to the side of the roof of the prominent rear gable and extends from that point, almost up to the boundary with the neighbouring dwelling. It competes visually with the gable and adds clutter to the roofspace. Although it is set back behind the ridgeline it still occupies a significant proportion of the roof. The width and horizontal emphasis of the glazing contrasts with the vertical emphasis of the two-storey bay and does not correspond to the fenestration below. The development has also led to a significant reduction in the expanse of hand-made clay tiles between the gable and the corresponding gable on the neighbouring property.
15. Therefore, the dormer unbalances the roof and has had a harmful visual impact. It appears very much as a modern incursion which is at odds with the original design of the dwelling and CA which was devoid of large scale dormer windows. I recognise that some other dormer windows are now present in the estate but they are not frequent and are of some vintage. Consequently, the

- presence of other dormers does not alter the prevailing character or set a precedent for further harm.
16. The rooflight that has been installed in the side facing roofslope of the front gable is in a prominent position within the street scene. As noted above, the dwellings on this side of Cyprus Avenue follow the curvature of the highway as it turns into Village Road such that the building line is staggered. The effect of this is that the rooflight is in direct view as one looks down the street in a westerly direction. On account of its design and bulky frame, it appears as a modern intervention in the roofslope in a prominent position.
 17. Although a number of rooflights can be seen elsewhere within the CA, by and large, they tend to be tucked to the side of dwellings or in more discreet positions. Moreover, as noted rooflights did not form part of the original design concept for the dwellings within the CA and the rooflines and profiles of dwellings play an essential role in the Arts and Crafts style of the development. The disruption to the roofline in such a prominent position causes harm to the integrity of the locally listed dwelling and the wider designated asset.
 18. For those reasons, the dormer and the rooflight have caused harm to the character and appearance of the area and the CA, contrary to the aims of policy DM01 of the Barnet Local Plan (2012)(the LP) and policy D3 of the London Plan (2021) which, amongst other things requires proposals to demonstrate high quality design based on an understanding of local characteristics. It would also contravene policy DM06 of the LP which requires that development should preserve or enhance the Borough's Conservation Areas.
 19. In line with paragraph 202 of the National Planning Policy Framework, where a proposal would lead to less than substantial harm to a CA, that harm should be weighed against any public benefits of the proposal. The harm in this case is localised and less than substantial but no public benefits have been put forward.
 20. However, the appellant has advanced an argument regarding the possible fall-back position of what could be erected under two previously approved schemes². Each of those schemes contained a much smaller dormer on the rear roofslope, of approximately half the width of that which has been constructed. The appellant maintains that the two schemes could be erected side by side, such that the visual impact of the permitted development would effectively be the same as the existing dormer.
 21. However, the plans submitted do not satisfactorily demonstrate that both schemes could be constructed independently. When the plans are overlaid, the western flank/side wall of the dormer approved under application 20/2955/HSE appears to overlap, or at least be in the same position, as the eastern flank of the dormer approved under application 20/1273/HSE. The roof is also shown to have a slight overhang and the eastern and western edges of the corresponding roofs would appear to overlap on the drawings submitted. Consequently, on the information before me, I am not satisfied that the two schemes could be independently constructed.

² LPA references 20/1273/HSE & 20/2955/HSE

22. It is not possible to 'merge' two schemes where an overlap occurs because the resulting development would not accord with the approval given in either permission. Fundamentally, it is a different form of development – one large dormer instead of two independent structures. As such, it appears that the two approvals were alternate forms of development and I attach no weight to the appellant's fall-back position in that regard. I note that the appellant's architect claims that the two schemes can be constructed independently but I can only go on the information provided which does not satisfactorily demonstrate that to be the case.
23. The two previously approved schemes show rooflights within the front facing elevation of the dwelling. No details of the specific design are provided but they appear to be small in scale. Moreover, as described above, the constructed rooflight is in an extremely prominent position. In my view it draws the eye far more than would be the case of a rooflight set further back on the front facing roof slope, taking account of the position of the dwelling and the curvature of the road. Accordingly, I am not satisfied that the previous approval of rooflights by the Council provides justification for a rooflight in a more harmful location.
24. Overall, no material considerations have been put forward that would outweigh the harm arising from the development and it follows that Appeal A on ground (a) should fail and that Appeal B should be dismissed. Accordingly, I shall refuse to grant planning permission for the development.

Appeal A on Ground (g)

25. An appeal on ground (g) is made on the basis that the time given to comply with the notice – 6 months in this instance – is too short. The appellant maintains that 6 months is insufficient time to secure a builder in the present climate due to pent up demand post-Covid and the loss of builders as a result of Brexit.
26. I recognise that there may be added challenges in securing builders as a result of those matters but it is difficult to quantify and no supporting information, such as discussions with local builders or the builder who constructed the scheme, has been provided to show that a tradesman could not be secured. Thus, the claims are generalised in nature.
27. When set against that I am mindful of the need for expediency in the enforcement of the planning system and note that the building works required are not extensive. Once engaged, it would not take a qualified builder long to remove the unauthorised works and make good the roof.
28. On balance, I find that 6 months is a reasonable period and the appeal on ground (g) fails.

Conclusion

29. In view of the above, I shall dismiss Appeal A and uphold the enforcement notice subject to the corrections described. I shall also dismiss Appeal B and refuse to grant planning permission for the development.

Chris Preston

INSPECTOR