



Appeal Decision

Site visit made on 12 October 2022

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd November 2022

Appeal ref: APP/M5450/C/22/3290502

Land at 12 Courtfield Crescent, Harrow HA1 2JZ

- 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 Ask Patel Limited against an enforcement notice issued by the Council of the London Borough of Harrow.
 - The notice was issued on 26 November 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a loft conversion comprising of a gable end and rear dormer ("Unauthorised Development").
 - The requirements of the notice are:
 - 1) demolish the Unauthorised Development comprising of a dormer window and gable end; or
alter the loft conversion in accordance with approved plans for the certificate of lawful development proposed application referenced P/0724/18.
 - 2) make good any damage caused to the building as a result of the above requirements and ensure that all materials used shall match those in the existing building.
 - 3) remove from the land all materials and debris arising from compliance with the aforementioned requirements of the notice.
 - The period for compliance with the requirements is within 6 months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (c) 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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The appeal on ground (c)

1. The appeal on this ground is that the matters alleged in the notice do not constitute a breach of planning control. The onus of proof here lies with the appellant. In this case, the appellant claims that the loft conversion, hip to gable extension and rear dormer extension are permitted development (PD) under Classes B and C, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO). They say that planning permission is not required for the works and hence no breach of planning control has occurred.
2. A lawful development certificate (LDC) was issued by the Council in April 2018 for alterations to the roof to form end gable and rear dormer, to install two roof lights in the front roof plane and add a window to the side (Council Ref: P/0724/18). However, development was subsequently carried out to the property which does not entirely accord with the LDC. This development is now subject of this appeal, and it includes a rear dormer extension that also forms part of the flank elevation to the dwelling.
3. The dispute in respect of this ground relates to condition B.2(a) of the GPDO

which states that the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.

4. However, the Technical Guidance on Permitted development rights for householders explains in relation to condition B.2(a) that the face and sides of a dormer window should be finished using materials that give a similar visual appearance to existing house. It goes on to say that the materials used for facing a dormer should appear to be of similar colour and design to the materials used in the main roof of the house when viewed from ground level.
5. The Technical Guidance may not have the force of law or contain the precise wording of the GPDO. This point was acknowledged in the appeal decisions referred to at 135 Clarence Road and 9 Stanley Avenue. It does, however, expand upon, and provide guidance on the application and interpretation of the GPDO, and in this case specifically condition B.2(a). Within this specific section, the use of the word 'should' is not an absolute requirement, but the most important consideration is the visual impact of the materials used. It is therefore a matter of judgement, taking into account all of the exterior materials. That was the approach taken in the appeal decisions cited by the appellant.
6. The painted white render has a similar visual appearance to the external walls of the property. However, it is not of a similar colour and design to the terracotta tiles used for the main roof of the property. The contrast is stark in terms of colour, design and profile. This is evident from the head of the cul de sac and, unlike the case at No. 135, the dormer at 9 Courtfield Crescent is constructed from materials that have a similar visual appearance to the main roof of the house. Although the materials used for the dormer do not need to match exactly, they are not, in my judgement, of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. Accordingly, the development was not PD under Class B, Part 1 of Schedule 2 of the GPDO in force when the enforcement notice was served. The development's compliance with Class C does not alter this. The appeal on ground (c) therefore fails.

The appeal on ground (a)/the deemed planning application

7. The main issue is the effect of the loft conversion comprising of a hip-to-gable extension and rear dormer on the character and appearance of the area.
8. The appeal property is part of a semi-detached pairing in an established urban area near to the head of the cul-de-sac of Courtfield Crescent which is characterised by two-storey properties with a traditional style and finish. Both the host property and its adjoining neighbour are finished with a white render. They also have a mixed single and two storey form with hipped roofs above two storey high bay windows to the front. This results in multiple roof planes.
9. The development built is not precisely the same as that subject of the LDC. The notable differences are: the set in from the gable elevation; the larger set down from the ridge line following the hip to gable conversion; and the use of materials for the cheeks of the dormer extension. However, the development and the LDC scheme are not, in terms of scale, massing and design, dissimilar. The more obvious change is the use of white render for the flank dormer cheek.
10. Setting aside the rear dormer for the moment, the hip to gable conversion respects the scale, massing and general design approach to properties in the area, including the hip to gable extension at 8 Courtfield Crescent. The hip to

gable conversion is visible in the street scene but this aspect of the scheme does not detract from the character and appearance of the area, and in fact reflects the position established in the LDC scheme. It is not a bulky addition.

11. The rear dormer extension is not set in from the gable end. This means that it does not technically accord with the Harrow Residential Design Guide Supplementary Planning Document (SPD) in this regard. This position is consistent with the Inspector's decision at 34 Clitheroe Avenue. On this basis, it is not 'visually contained' within the rear roof slope even if it is set back from the eaves, in from the party boundary and from the ridge, which are other requirements of the SPD. However, the SPD confirms that consideration will be given to the type of roof, the scale of proposals, and the character/appearance of the house and those adjacent.
12. The host property contributes to the character of properties in the area, but it is not dominate in the street scene due to its siting. The dormer extension is not overly prominent in the street scene, save for the view from the head of the cul-de-sac. From here the lack of set in from the flank elevation does mean that the dormer is less sensitive to its host and its roof. However, aside to the set in from the flank elevation, there is little difference in character and appearance terms to the LDC scheme which would have also resulted in a 'box like' dormer being added to the rear roof plane. This is what adjacent neighbours would see if, as the enforcement notice requires the appellant to do, the LDC scheme was implemented. Furthermore, the fact that the rear dormer is visible to neighbouring occupants does not necessarily equate to harm.
13. So, the key consideration is whether the dormer responds positively to local character. Part of this character includes the side dormer extension at No. 9 and other forms of extensions or alterations. There are also other examples of this form of development in Courtfield Avenue. In the round, I consider that the dormer extension respects the scale, massing and bulk of properties in the street, including those which have been extended. The materials used respond to the white or other light shades of render found in the area.
14. I conclude that the loft conversion, comprising of a hip to gable extension and rear dormer would not be detrimental to local character, having regard to the scale, massing, bulk, siting, height and materials found in the area. As such, the development respects the host building and the character and appearance of the area. Despite the conflict with part of the SPD, this is outweighed by the scheme's compliance against Policy CS1.B of the Harrow Core Strategy, Policy DM1 of the Development Management Policies, Policies D1 and D3 of The London Plan, the remainder of the SPD and paragraph 130 of the National Planning Policy Framework.

Other matters

15. The development does make effective use of the property and increase the internal living space, but these are aims of both local and national planning policy. The property has, however, retained the character and appearance of a dwellinghouse which is consistent with neighbouring properties. I note the reference to a previous enforcement notice, but the Council do not dispute the appellant's view that this notice has been complied with. I have no reason to doubt that assessment.
16. Residents also make points about the appellant's intention to convert the property into a house in multiple occupation (HMO). I note that the Council

previously refused planning permission for the property's conversion to a HMO but there is no indication that allowing this appeal and granting permission for the roof alterations would effectively facilitate a future HMO use. Besides, this is conjecture and I have not taken such matters into account in reaching my decision.

Conclusion

17. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the construction of a loft conversion comprising a gable end and rear dormer as described in the notice. The appeal is therefore allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out in the Formal Decision.

Formal Decision

18. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the dormer window and gable end at land at 12 Courtfield Crescent, Harrow HA1 2JZ as shown on the plan attached to the notice.

Andrew McGlone

INSPECTOR