



Appeal Decision

Site visit made on 8 November 2022

by Anthony J Wharton BArch RIBA RIAS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 November 2022

Appeal Ref: APP/C4235/C/22/3296165

61 Chester Road, Hazel Grove, Stockport SK7 5NY

- 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 Darius Gough against an enforcement notice issued by Stockport Metropolitan Borough Council.
 - The enforcement notice was issued on 3 March 2022.
 - The breach of planning control as alleged in the notice is as follows:
Insertion of 3 dormer windows on the rear roof of a detached garage.
 - The requirements of the notice are as follows:
 1. Remove the three dormer windows from the rear roof slope of the detached garage.
 2. Complete the rear roof slope of the detached garage so that it is in full compliance with drawing number P101 received 3/11/18 Plans and Elevations.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on grounds (a) and (f), as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed. See formal decision below.

Background information

The appeal building and its immediate surroundings

2. The appeal building is a garage (with three doors) which has been built to the rear of the much extended, two-storey, detached dwellinghouse at No 61 Chester Road. It occupies most of its former rear garden resulting in very little amenity space or garden for the main dwelling. The house is located at the junction of Chester Road and Vaudrey Drive. There is a vehicular access to the house from Chester Road, whilst the garage is accessed from Vaudrey Drive. The house is located within this prominent residential area in Hazel Grove and there is a pair of semi-detached houses immediately to the south at Nos 63 and 65.

3. There is also another semi-detached dwellinghouse at No 2 Vaudrey Drive, immediately adjacent to the appeal garage to the east, whilst across the road is the blank gable elevation of a parade of shops known as 'The Boulevard'.

The planning history

4. Planning permission had previously been granted for the two-storey rear and side elevation to No 61. In October 2018 an application was submitted for the detached appeal garage and this was approved in December 2018. Effectively this filled in between the rear of the dwellinghouse and No 2 Vaudrey Drive leaving only a very narrow area between the garage and the boundary with No 63.

5. The approved drawings show the rear elevation of the pitched roof garage to be parallel to the rear garden of No 63. The front elevation was shown to have dormer windows facing onto Vaudrey Drive, with the first floor as a storage area.

6. The garage was not constructed in accordance with the approved drawings and the 3 unauthorised dormer windows were added to its rear roof slope. These have the potential to give clear views across the gardens and rear areas of Nos 63 and 65 Chester Road, as well as No 2 Vaudrey Drive. The dormers have also significantly altered the character and appearance of the original scheme which was granted permission.

My site visit

7. At the time of my site visit I noted that the windows to the 3 rear dormers had been fixed closed and that obscure glazing had been installed. I also noted that, in the middle of the garage building, a dog-leg timber staircase with timber newel posts had been partially completed to give access to the first floor. This rendered the middle door of the three garage doors somewhat superfluous, although there was still a small space between the staircase and this middle garage door.

8. Clearly, I was unable to view the adjacent gardens from the 3 dormer windows of the garage but I was able to view them from within the gardens of No 65 Chester Road and No 2 Vaudrey Drive. I was unable to gain access into the rear garden at No 63 and was also unable to view this rear area from within the appellant's property (No 61). I was informed that this was because the staircase to the top floor had not been completed.

9. However, a ladder access at the rear of the appeal property enabled me to gain views (over the 2m or thereabouts high boundary fencing) into the rear garden area of No 63. For some reason this had been split into two sections separated by a high brick wall. The section closest to the house was laid out with what appeared to be green artificial grass and formed an obvious garden to No 63. However, the area to the east of the brick wall was comprised of gravel and this was completely enclosed by the close boarded fencing without any obvious access. I was informed that this area had been used by the appellant during the construction of the garage.

The Appeal on ground (a)

Relevant Policy

10. The most relevant development plan policies are Core Strategy Development Management (CSDM) Policy SIE-1 (Quality Places) and Saved Unitary Development Plan Review (UDPR) Policy CDH1.8 (Residential Extensions). The Council's adopted Supplementary Planning Guidance Document Extensions and Alterations to Dwellings (SPGEAD) is also to be considered. The National Planning Policy Framework (NPPF) is a major material consideration and Section 12, Achieving well-designed places, is most relevant.

The Main Issues

11. The main issues are, firstly, the effect of the 3 unauthorised dormers on the living conditions of the occupiers of neighbouring properties at Nos 63 and 65 Chester Road and No 2 Vaudrey Drive and, secondly, their effect on the character and appearance of this part of Hazel Grove.

Effect on Living conditions

12. Having viewed the appeal dormers from the gardens of Nos 65 and No 2 and having seen the proximity of the split garden at No 63, I share the Council's concerns regarding the impact they have had on the amenities of any occupants of these neighbouring properties. Due to their orientation and their proximity to the boundaries, there are clear views of the dormers from all three rear garden areas. Whilst acknowledging that the obscure glazing currently prevents direct overlooking from the appeal property, I consider that the perception of overlooking is significant for any present or future occupants of Nos 63, 65 and No 2. It may well be that the current neighbours do not object but in a situation such as this consideration must be given to any future occupiers who could be affected by the development as constructed.

13. As indicated by the Council any occupants should be able to enjoy a reasonable level of privacy, without the threat or perception of being overlooked. Given the proximity of the dormers to the common boundaries the occupiers of Nos 63 and 65 will clearly have the perception of being overlooked, whenever they are using the rear gardens. Having also viewed the dormers from the garden of No 2 Vaudrey Drive, again it is clear that there is the potential for overlooking and a clear perception of being overlooked.

14. I also consider that, due to their obtrusive bulk and massing, the 3 unauthorised dormers have resulted in an overbearing effect for users of the garden to No 63. This is because there is only a gap of just over 2m or thereabouts between the rear of the garage building and the boundary fence. Having seen the small relatively narrow garden to No 63, I consider that the 3 dormers will be perceived from this area as being overbearing and obtrusive.

15. Due to their proximity, construction and bulk I consider that the unauthorised dormers are clearly detrimental to the amenity of the occupiers of the dwelling houses at Nos 63 and 65 Chester Road and No 2 Vaudrey Drive. Further to the Council's comments regarding the installation of obscure glazing to the windows, (now in place) I agree that this cannot reduce the perception of the occupiers of the 3 properties that they are being overlooked. Nor can this overcome the overbearing effect on the users of the garden areas to No 63. The appeal, therefore, fails on this first issue.

The effect on character and appearance

16. As indicated by the Council, Policy CDH1.8 of the UDPR requires that any new extension or development complements existing dwellings in terms of their design, scale and materials. The appeal garage was designed to be a building that was incidental to the main dwellinghouse. It was granted planning permission on the basis that it was subservient to the main house in terms of its size and overall design.

17. The Council had accepted the inclusion of 2 front dormers in order to provide natural light to the approved first floor storage area. The Council was clearly satisfied that these front dormers did not have any impact on the amenities of the occupants of nearby properties, given their location and the view onto a blank elevation on the opposite side of Vaudrey Drive. I agree with the Council's judgement in this respect and the fact that there are only two dormers reduces the overall massing significantly. From the front the garage appears as a subservient building to the main house.

18. However, when seen from the rear the 3 rear dormers on the other hand, completely alter this simple initial design. I agree with the Council that the addition of the rear dormers has resulted in an over-dominant and obtrusive form of development, which does not appear, or is perceived to be, an incidental or subservient building to the dwellinghouse at No 61 Chester Road.

19. Instead, the garage as constructed has the appearance of a separate unbalanced dormer bungalow on a small, tight and very cramped site. In my view the overly incongruous form of the 3 dormers fails to complement the host building, or those of the immediate and wider residential area.

20. I consider that, as built and due to the oversized and bulky rear dormers, the garage when viewed from the rear looks completely out of place between No 61 and No 2. As a result it is, in my view, visually harmful to the character and appearance of this predominantly residential part of Hazel Grove. The appeal also fails, therefore, on this second issue.

Conclusion

21. For the above reasons I find that the 3 unauthorised rear dormer windows are contrary to Policy SIE-1 of the CSDM; to Policy CDH1.8 of the UDPR and to the Council's SPGEAD. It is also contrary to the aim of the NPPF to achieve well-designed places. The NPPF is quite clear that development that is not well-designed should be refused planning permission.

22. It follows that I do not consider that planning permission should be granted for the 3 rear dormers and that the appeal on ground (a) must fail.

The Appeal on ground (f)

23. An appeal on ground (f) must be made on the basis that lesser steps would overcome the harm caused. The scope of an appeal on ground (f) is limited in its scope and can only require lesser steps in relation to the development which is the subject of the appeal. It cannot be used to seek planning permission for any alternative scheme that is outside the scope of the enforcement notice and therefore the development subject of the enforcement notice.

24. As indicated by the Council, under section 173 of the Act, there are two purposes which the requirements of an enforcement notice can seek to achieve. The first Section 173(4)(a) is to remedy the breach of planning control that has occurred; the second is Section 173(4)(b) is to remedy any injury to amenity that has been caused by the breach. Any appeal on ground (f) is constrained by the Council's purpose in issuing the enforcement notice.

25. The Council in serving the notice is clearly seeking a complete remedy and the purpose of the notice, therefore, falls within Section 173(4)(a). The appeal on ground (f) is, therefore, limited to the consideration of whether the requirements of the notice exceed what is necessary to achieve the purpose of remedying the breach of planning control.

26. I agree with the Council that, in effect, what the appellant is seeking is planning permission to retain 2 of the 3 unauthorised dormer windows to the rear roof of the garage, regardless of the outcome of the appeal under ground (a). However, I have agreed with the Council that the 3 dormers are contrary to the Councils adopted planning policies and the NPPF. It

follows, therefore, that the appeal on ground (f) cannot be used to retain 2 dormers where the Council is seeking a total remedy of the breach.

27. I also agree with the Council that nothing other than the total remedy of the breach, as required by the enforcement notice, will deal with the identified harm to amenity. The appeal also fails on ground (f).

Other Matters

28. In reaching my decision I have taken into account all of the other submissions made by the parties. These include the planning history, the initial appeal submissions, the various statements and any final submissions. However, none of these carries sufficient weight to alter my conclusions on the main issues. Nor is any other factor of such significance so as to change my decision.

Formal Decision

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

Anthony J Wharton

Inspector