



Appeal Decision

Site visit made on 5 December 2022

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th January 2023

Appeal Ref: APP/L5810/D/22/3303873

244 St Margarets Road, Richmond Upon Thames, Twickenham, TW1 1NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs James and Rachel Luke against the decision of the London Borough of Richmond Upon Thames Council.
 - The application sought planning permission for loft conversion consisting of a rear dormer and one rooflight to the side. Loft space to include a bedroom and en-suite bathroom without complying with condition 2 attached to planning permission Ref APP/L5810/D/21/3276033 (21/0230/HOT allowed on appeal), dated 15 September 2021.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans:
1579.01.03.Exg.001; 1579.01.03.Exg.002; 1579.01.03.Exg.022; 1579.01.03.Exg.023; 1579.01.03.Exg.024; 1579.01.03.Exg.060; 1579.01.03.Exg.061; 1579.01.03.Exg.062; 1579.01.03.Exg.063; 1579.03.03.Pln.023A; 1579.03.03.Pln.024B; 1579.03.03.Pln.060B; 1579.03.03.Pln.061B; 1579.03.03.Pln.062B; 1579.03.03.Pln.063
 - The reason given for the condition is: for the avoidance of doubt and in the interests of proper planning.
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Decision

1. The appeal is allowed and planning permission is granted for loft conversion consisting of a rear dormer and one rooflight to the side. Loft space to include a bedroom and en-suite bathroom at 244 St Margarets Road, Richmond Upon Thames, Twickenham, TW1 1NL in accordance with the application Ref 21/0230/HOT dated 25 January 2021, without compliance with condition number 2 previously imposed on planning permission Ref 21/0230/HOT (allowed at appeal - APP/L5810/D/21/3276033) dated 15 September 2021 and subject to the following conditions:
 - 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of planning permission 21/0230/HOT allowed at appeal;
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents, where applicable: Location Plan 1579.01.03.Exg.001; Proposed East Elevation 1579.03.03.Pln.062.C C; Proposed First Floor Plan 1579.03.03.Pln.023.B; Proposed Loft Plan 1579.03.03.Pln.024.C; Proposed North Elevation 1579.03.03.Pln.063.A A; Proposed South Elevation 1579.03.03.Pln.061.C C and Proposed West Elevation 1579.03.03.Pln.060.C C;

- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

2. The main issue is the impact of the increase in size of the side rooflight upon the character and appearance of the host property and the St Margarets Conservation Area.

Reasons

3. The appeal site is a semi-detached dwelling on the east side of St Margarets Road within a predominantly residential area which is located within the St Margarets Conservation Area (CA). The existing permission allowed a rooflight in the same location as that before me within this proposed variation of condition so, looking at the plans before me, I do not find that siting, fenestration or lack of set back can be validly used to refuse the proposal in this case. It falls to consider the impact of the variation, i.e. the increase in size and scale with regard to the host property and CA as is the main issue.
4. Section 72 of the Planning (Listed buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the CA. In this context preserving can also be taken to mean doing no harm. In accordance with paragraph 199 of the National Planning Policy Framework 2021 when considering the impact of the proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation.
5. There is some inconsistency between the sizes stated in writing by the appellant and the Council, however, it is clear from the submitted drawings that the proposed rooflight would be increased in height and width with the depth to remain the same as that which has already been approved. The materials would also remain the same as that already approved. I do not find that the proposed increase would result in a large and bulky addition to the roofscape. The South elevation plans, and the comparative images in the appellant's statement, evidently show an enlarged rooflight but I do not find the difference between the already approved and the revised proposals to result in the proposal not being subordinate to the host property. The revision is, I find, appropriate for both the character and appearance of the appeal site.
6. The Council have stated that the larger rooflight would materially harm the pattern of development along St Margarets Road but provide limited evidence of assessment as to support this point. Despite this, at the time of my site visit I noted that there are a variety of rooflights and dormers within the local and wider street scene, including in the group of properties within which the appeal property is situated. Rooflights and dormers are, therefore, characteristic within the immediate area. The proposal would not be uncharacteristic as a result of the general variety noted at the time of my site visit and as also noted by a previous Inspector visiting the site.
7. The proposed rooflight would not affect the sense of spaciousness around the property and its relationship with the neighbouring property. As a result of the rooflight siting it would not be readily visible in relation to the semi-detached pair in terms of any impact upon the symmetry between them, generally

viewed from the street scene, nor would be it unduly prominent as a result of generally limited views within the wider street scene. I find this is well demonstrated by the illustrative drawings within the appellant's statement and consequently, I do not find that the proposal would impact upon the appearance of the CA. The proposal would have little consequence or harmful impact and would, on the basis of doing no harm, preserve the character and appearance of the CA.

8. Varying the plan condition, to allow the proposed changes, would not materially alter the development for which permission was originally granted. The proposal would be consistent with London Borough of Richmond Upon Thames Local Plan 2018 (LP) Policy LP1 which seeks to maintain high-quality character and heritage and demonstrate understanding of the site and how it relates to its existing site context, including character and appearance. The proposal would also be consistent with LP Policy LP3 which seeks to avoid harm to designated heritage assets and secure appropriate materials.
9. The Council's refusal reason references the Supplementary Planning Document House Extensions and External Alterations 2015 (SPD) and this document is listed by the Council as of relevance in section 5. Despite this there is no evidence of the proposal having been assessed against this document as part of the decision made. A copy of the SPD has been submitted with this appeal which I have reviewed and I consider the proposal is consistent with the overarching objective which is to secure appropriate design as a result of external alterations to dwellings.

Conditions

10. As an appeal under S78 of the Town and Country Planning Act 1990, S73 can be used to make minor material amendments if there is a condition on the original permission which lists the approved plans which can be varied. Given I am allowing this appeal, this essentially grants a new permission for the development subject to the modified condition. For this reason it is necessary to restate all the conditions to which the new permission will be subject and this is reflected in the Council's suggested conditions, without prejudice, in the event the appeal is allowed.
11. I am satisfied that the conditions meet the necessary tests within the Framework and I have re-applied all of the conditions of the original permission. A time condition is attached to comply with section 51 of the Planning and Compulsory Purchase Act 2004 to coincide with the date of the previous approval. A condition requiring the development to be in accordance with the approved plans is required to control and define the development which is granted consent. I have, however, amended the approved plan list to include those which are proposed only and omitted those which are existing albeit it I acknowledge these were updated to reflect a measured survey information. The proposal is, evidently, only required to comply with the proposed plans as a result of any permission granted and implemented. A materials condition is required to ensure an appropriate finish.
12. The Council have suggested a condition regarding obscure glazing and being non-opening (unless more than 1.7m above floor level). This condition was not applied to the scheme previously approved and the Council have provided no justification for this condition in their discussion as to neighbouring amenity (which is the reason given in the conditions list) in the submitted delegated

report. In addition the drawings show the rooflight over a staircase with the whole rationale behind the variation being to allow for head height over the staircase itself as circulation space. Based upon the evidence before me I do not find that a condition regarding obscure glazing or restrictions would meet the tests within the Framework and I have not applied this condition for these reasons.

13. The Council have outlined a recommended condition relating to a Fire Safety Strategy stated to be in accordance with (an unspecified version of the London Plan) Policy D12, however, I have no copy of this policy before me with section 5 of the Council's report still referencing the 2016 London Plan and not the replacement Plan published in 2021. On this occasion I have insufficient information before me to justify the application of this condition, against a relevant policy requirement, to the newly granted permission as a result of this appeal.

Conclusion

14. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Eleni Randle

INSPECTOR