



Appeal Decision

Site visit made on 5 December 2022

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2023

Appeal Ref: APP/H5960/C/22/3290891

66 Brightwell Crescent, London SW17 9AE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mr Mateen Ahmed against an enforcement notice issued by the Council of the London Borough of Wandsworth.
 - The notice was issued on 8 December 2021.
 - The breach of planning control as alleged in the notice is without planning permission and within the last four years, the unauthorised erection of a rear mansard roof extension, raising of the ridge of the main roof and erection of extension above back addition.
 - The requirements of the notice are to:
 - 1) Remove the unauthorised works and ensure that any remedial works accord with the approved plans and conditions of planning permission ref: 2019/3669; and
 - 2) Remove from the site all debris arising from compliance with step 1 above.
 - The period for compliance with the requirements is five months.
 - 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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Decision

1. It is directed that the enforcement notice is varied by the deletion of requirement 1 and its replacement with the following requirement:
 - 1) *Remove the unauthorised works and restore the property to its previous condition or, carry out remedial works so that the works accord with the approved plans and conditions of planning permission ref: 2019/3669.*
2. Subject to this variation, the appeal is dismissed, 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.

The Enforcement Notice

3. Planning permission has previously been conditionally granted by the Council for various alterations and extensions to the house, including a mansard roof extension to the rear and single storey front/side extension, reference 2019/3669. The Council confirmed that since the mansard roof extension and single storey front/side extension were built within the relevant three-year period, the permission has been implemented.
4. Where planning permission has been granted but the development is not built as approved, the notice should give the recipient options to either remove/modify the unauthorised works or implement the permission in accordance with its terms and conditions.

5. The appellant cannot be required to implement any planning permission because that would exceed what is necessary to remedy the breach of planning control. Yet requirement one is worded to that effect. Since this is excessive, I shall vary the requirement accordingly.

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

6. The main issue is the effect of the development on the character and appearance of the house and area generally.
7. 66 Brightwell Crescent is a traditional end of terrace house located in a predominantly residential area, with houses in the terrace having traditional two-storey outriggers to the rear.
8. I acknowledge that dormer extensions and extensions above outriggers are reasonably common in the surrounding area, particularly to the rear of houses on the adjacent Himley Road. However, whilst some are similar in form to the appeal development, the character and appearance of the area has not been seriously undermined by their existence, given that they are relatively few in number. Furthermore, there are only a limited number of such extensions along Brightwell Crescent, and they are not a characteristic feature.
9. The Council previously granted permission for a mansard extension to the main roof at the rear, including raising the ridge of the house. Although built as a single operation, it appears based on their submissions, that the Council's concerns are centred on that part of the extension above the outrigger.
10. The extension above the outrigger, occupies the entire roof slope and is a sizeable addition, adding considerable bulk to the house. Combined with its design, in particular the box like stepped form, it has a dominant and incongruous appearance which relates poorly to the style and character of the house. Consequently, the extension adversely affects the appearance of the house, with resultant harm to the character and appearance of the surrounding area.
11. The extension is not prominent in views from the street. However, whilst not readily seen in wider public views, the extension will be visible from the rear windows and gardens of neighbouring and surrounding houses and in such views the extension would appear as a discordant feature.
12. The appellant referred to a previously certified scheme for an extension above the outrigger. That would have a box like form but would be set up from the eaves and would not include a stepped form or dormer extension. Consequently, whilst the design is basic, it's effect would not be the same as the appeal development. In any case, the appellant has not sought to demonstrate that they would implement that development in the event the appeal was dismissed. As such, its existence is a matter of limited weight.
13. However, the notice as varied, gives the appellant the option to either remove the unauthorised works or modify them in accordance with a previously approved scheme. Accordingly, it is reasonable to assess the extensions, subject of the notice, against the approved scheme.
14. The approved extension above the outrigger would not occupy the entire roof slope and includes a mansard type design. Consequently, it would appear materially smaller and sympathetic, and is clearly preferable in terms of its

- effect on the character and appearance of the house and surroundings, compared to the existing extension.
15. The appellant provided photographs and details of properties in the wider area which have dormer extensions and extensions above outriggers, several of which I saw at my visit.
 16. Those at the neighbouring 62 and 64 Brightwell Crescent have similarly large extensions to the main roof however, the extensions above the outrigger do not occupy the entire roof. Whilst the flat roof form is similar, overall, their appearance is more straightforward and not directly comparable.
 17. That at Charlmont Road, 52 Brightwell Crescent and a number on Himley Road are similar in form, in that they occupy the entire roof of the outrigger and have flat roofs and vertical walls. However, whatever the circumstances they came to be, these examples reinforce my view about the adverse visual impact that such development can have. Accordingly, they do not provide a strong argument to justify the appeal development, not least because such arguments could be repeated often, to the overall detriment of the character of an area.
 18. Others referred to in the images as 41 – 43 Himley Road, are materially different. They incorporate a mansard type design, including that with the vertical brick wall, and have a more sympathetic appearance which does not compromise the intrinsic form or character of their host properties. That at 39 Brightwell Crescent would be similar to those developments in appearance.
 19. That on Loubet Street is not viewed in association with the appeal site and its existence is therefore a matter of little weight.
 20. That houses could be extended as permitted development is a matter of limited weight since there is no substantive evidence that is likely to happen.
 21. Overall, for the reasons given, the extension causes unacceptable harm to the character and appearance of the house and area generally, contrary to Policies DMS1 and DMH5 of the Wandsworth Local Plan Development Management Policies Document 2016. Together these require extensions to be well designed and not so large that they dominate and compete with the original building, and that the scale and appearance of development contributes positively to local spatial character. There is also conflict with the design aims of the National Planning Policy Framework and the Council's SPD¹.

The appeal on ground (g)

22. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant suggested 10 months would be more appropriate to enable a building contractor and materials to be sourced and referred to shortages of both, due to the pandemic and Brexit.
23. The purpose of the time period within an enforcement notice is to allow for the physical works associated with the notice to be removed. The appellant's submission largely relates to the time before the works can commence, when a contractor and materials can be sourced.
24. Whilst the appellant's concerns are understandable, in the absence of substantive explanation about the availability of contractors or materials, I

¹ Wandsworth Local Plan Supplementary Planning Document Housing Adopted November 2016

consider the period of five months as specified in the notice, is proportionate to the breach of planning control that has occurred.

25. Accordingly, the appeal on ground (g) fails.

Conclusion

26. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Felicity Thompson

INSPECTOR