The Planning Inspectorate

Appeal Decision

Site visit made on 17 January 2023

by Roy Curnow MA BSc(Hons) CMS MRTPI

An Inspector appointed by the Secretary of State

Decision date: 09 February 2023

Appeal Ref: APP/Y5420/C/21/3288885
Land and buildings at 58 Vallance Road, London N22 7UB

- 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 Shye-Wei Wong against an enforcement notice ('the Notice') issued by the Council of the London Borough of Haringey.
- The enforcement notice, numbered UNW/2018/00372, was issued on 8 November 2021.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a rear dormer extension.
- The requirements of the notice are: 1. Demolish the rear dormer extension in its entirety; and 2. Remove from the land any debris resulting from carrying out step 1.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Decision

1. 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.

Reasons

Ground (a)

2. An appeal made under Ground (a) is that planning permission should be granted for the breach of planning control alleged in the Notice.

3. Vallance Road is a residential street that lies close to Alexandra Palace. 58 Vallance Road, ('No 58') is a large dwelling that was originally two-storeys high but a further storey of accommodation has been added as a result of the alleged breach of planning control.

4. The site is located in the Vallance Road Conservation Area ('VRCA'), which covers a number of residential streets in the vicinity of Vallance Road. It was designated in 2008. It is a residential area of fairly wide roads, flanked by footways with trees in them on both sides. Dwellings in the area are fairly large detached and semi-detached, most often in a manner akin to the 'Arts and Crafts' style. They share many design elements, including the use of feature hip and gable elements. The dwellings are set back from the road, with gardens to their front and rear. In combination, the above features contribute to the character and appearance of the VRCA.

5. The VRCA is a designated heritage asset. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the statutory duty that

"special attention shall be paid to the desirability of preserving or enhancing the character or appearance" of conservation areas.

6. No 58 has been extended by way of an addition to its roof. It forms half of a pair of semi-detached dwellings which were, originally, set under hipped roofs. No 58 now has a gable end, and a large dormer extension has been added to its rear elevation.

7. Planning permission was granted for 'Conversion of roof from hip to gable, rear dormer window (reduced from unauthorised size) and reinstatement of chimney (part retrospective)' in September 2020 (Council reference HGY/2020/1547). This gave permission for the gable end on the property, but the permitted dormer was far smaller than that which is on the property today. It was to be set well in from the property's eaves, ridge and side boundaries and was to be fairly central on the rear roof slope.

8. The dormer that has been built is set back from the eaves and ridge, in much the same manner as that allowed under HGY/2020/1547, but it runs for close to the entire width of the roof slope, being set a small distance away from the boundary with No 56 and the gable end.

9. The roofscape of the VRCA is varied, though there are the recurring themes I refer to above. There are some dormer windows, which seemed to be limited to the rear and side elevations of properties. Of those, the Council identifies nine that it described as being "dominant". It does not define the word in this context, but from its submission I take this to mean similar to the dormer at No 58.

10. Of those put forward by the Council, two were granted planning permission after the designation of the VRCA. Those, at 72 and 84 Vallance Road, were for schemes that were similar to that which has occurred at No 58. However, the Council informs me that both permissions were granted on the principle that they matched pre-existing dormers that had been built on neighbouring properties before the designation of the VRCA. I could only see No 84 from the front, from where its dormer is unseen. However, the Appellant submitted details of the planning permission and I am able to see that the development was similar to that before me. That at No 72 is visible across rear gardens from the top of Talbot Road. Again, it is similar to the development that has occurred at No 58. I also saw large dormers from the junction of Talbot and Vallance Roads, which appeared to be on the rear elevations of 27 and 29 Vallance Road.

11. In addition to details of the approved proposals at Nos 72 and 84, the Appellant has supplied details of a number of planning permissions for roof extensions to numbers 2, 9, 12, 17, 19, 24, 27, 68 and 88 Vallance Road. Not all of these were for the same form of dormer, as proposed at No 58. However, that approved at No 24 was; it included a large, mostly glazed dormer running across much of the width of the rear of the property. That at No 27 was for a rear dormer, but the plans show this to take up considerably less of the roof slope than that at No 58. That at No 68 was for a far smaller roof addition, whilst those at Nos 9, 12 17 and 19 were for large roof additions, but of a different form than has been constructed at No 58.

12. The recently granted planning permission at 88 Vallance Road, (Council reference HGY/2021/2797), included a large rear dormer that is not dissimilar

to that at No 58. The Officer's report for the development noted that there were other dormers of this form nearby and this provided mitigation. However, it goes on to say that "Overall, the proposal is considered proportionate and subordinate to the host building and is in keeping with the pattern of development in the area. Therefore, the local character and visual amenity of the area will be protected".

13. From the Council's Officer reports that I have, it is clear that each proposal was assessed on its individual merits. I note the comments made by the Officer in respect of the large dormers approved to the rears of No 72 and 88: that the proposal is considered proportionate and subordinate to the host building; is in keeping with the pattern of development in the area; and that they noted a variety of houses within those parts of the VRCA. These were judgements made on the individual circumstances of those cases. In respect of No 72, I note that the report states that the proposed rear dormer "would be similar in appearance to that at no.70 [the adjoining semi-detached dwelling], which has a double set of French windows". The comment regarding "subordinate and proportionate" was made in respect of the hip to gable extension, which is not an issue in the case before me.

14. There is wide variety in the roofscape of the VRCA, but the large box-like dormers that have been added to properties add little to its character and appearance. Whilst present in the VRCA, due to their small number they do not define the character or appearance of the area. The dormer at No 58 is an overly large feature on the roofslope. Rather than appearing as a subservient element it dominates the rear of the property, and its scale and bulk are harmful to it. For the above reasons, therefore, the dormer does not preserve or enhance the character or appearance of the VRCA.

15. The development leads to less than substantial harm to the designated heritage asset, and I have to attribute considerable importance and weight to this. This needs to be weighed against the benefits that would arise from the scheme. It is axiomatic that there are benefits to the occupants of No 58, through the provision of additional space. No public benefits have been put forward, nor can I discern any; therefore, the benefits arising are not sufficient to outweigh the harm that I have identified.

Other Matters

16. The Appellants are both doctors who worked on the frontline during the pandemic when trying to resolve the matter with the Council. They say that their architect received email advice from the Council that clearly said that what was proposed was permitted development. The evidence that I have seen does not show this. An email to the 'Duty Officer' set out what was proposed was similar to that at No 70 and that the author had been advised that there were no restrictions and that a loft extension could be added using permitted development (PD) rights. No further details of the advice, nor who gave it, are provided. The Council's response referred to the need to adhere to PD rights and advised that reference was made to the Planning Portal in this respect. Further, it advised that an application for a certificate of lawful development might be made. This does not show that the Council agreed that the extension to the roof of the property would be PD.

17. I understand that this was not a deliberate action and that the Appellants have been trying to resolve this with the Council. I can also appreciate the stress

that this has caused. However, these matters do not outweigh the harm to the VRCA, to which I have to attribute considerable importance and weight.

Conclusion on Ground (a)

18. For the above reasons, the dormer that has been erected on the rear roof slope fails to preserve or enhance the character or appearance of the VRCA in accordance with the statutory test. As the terms of Policy HC1 of the London Plan March 2021, Policy DM9 of the Haringey Development Management Plan DPD July 2017 ('DMP'), and Policy SP12 of the Haringey Local Plan Strategic Policies 2013-2026 (consolidated 2017) ('SP') essentially mirror the statutory test, the development is also contrary to their terms. The dormer does not represent high quality design and is, therefore, contrary to the terms of DMP Policies DM1 and DM12 and SP Policy SP11.

Ground (f)

19. The Appellant considers that the Council's steps are both excessive and unreasonable and puts forward an alternative scheme that is part of the matters referred to in the Notice. This scheme is for a smaller dormer on the rear roof slope which was amongst matters granted planning permission by the Council (Council reference HGY/2020/1547).

20. As the purpose of the Notice is to remedy the breach of planning control, I find that the steps required by the Notice do not exceed what is necessary to achieve this. However, what was approved under planning permission HGY/2020/1547 does represent a fallback position for the Appellant. The Notice cannot take away rights to lawfully develop land and, therefore, the Appellant would be within his rights to complete that development through the construction of the smaller dormer shown in the approved plan.

21. The appeal under Ground (f) does not succeed.

Ground (g)

22. The Appellant's case is that 3 months is insufficient time to comply with the Notice and considers that a minimum of 6 months would be required. It is stated that the family would be likely to need to relocate, but no evidence of why this would be the case is given. I understand the issues regarding the cost of the work and the availability of skilled labour, but neither demonstrates that insufficient time has been allowed by the Council. Should there be difficulties in complying with the requirements in a timely manner, I note that the Council states, in paragraph 6.15 of its statement, that it could use its discretionary powers under Section 173A of the Act to grant an extension of time for the works to be conducted.

23. For these reasons, the Ground (g) appeal fails.

Overall Conclusion

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

Roy Curnow Inspector