



Appeal Decision

Site visit made on 21 December 2022

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 March 2023

Appeal Ref: APP/B5480/C/21/3287831

17-19 Billet Lane, Hornchurch RM11 1TS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
- The appeal is made by Mr C Unal against an enforcement notice issued by the Council of the London Borough of Havering.
- The notice, numbered ENF/100/20, was issued on 17 November 2021.
- The breach of planning control as alleged in the notice is:
 1. Without planning permission, the erection of two rear dormers.
And
 2. Without planning permission, the conversion of first and second stories to 4 x 1 bed self-contained flats.
- The requirements of the notice are:
 1. Cease the use of the property as 4 x 1 bed self-contained flats;
AND
 2. Demolish the rear two dormers;
AND
 3. Revert the floors above ground floor of the properties back to the storage which existed prior to carrying out the subdivision into multiple flats;
AND
 4. Permanently remove all cooking facilities including kitchen equipment and all bathrooms, washing facilities and toilets except for those required for the previous storage;
AND
 5. Remove all rubble and debris accumulated when taking steps (1) to (4) above.
- The period for compliance with the requirements is four months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) 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.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with corrections in the terms set out below in the Formal Decision.

Preliminary Matters

1. From the information provided, it is apparent that a new development plan has been adopted since the notice was issued. In light of this change, the Council was asked to confirm what the relevant development plan policies are now and the appellant was provided with an opportunity to comment. I have taken any relevant comments into account in my reasoning.

Reasons

The Notice

2. I have a duty to get the notice in order, where I can, drawing on my powers under section 176(1) of the 1990 Act.
3. Paragraph 5.1. of the notice requires the use as "4 x 1 bed" self-contained flats to cease. But this wording would not prevent a use for a different mix or number of flats. So I am deleting this phrase from the requirements.
4. Paragraph 5.3. of the notice requires that the upper floors revert to the storage use which existed prior to the appeal development. But an enforcement notice cannot require that a lawful use is actively carried out and so I am deleting this requirement entirely.
5. The above corrections would still enable the purpose of the notice to be achieved and they are minor in nature so I am satisfied they would not result in any injustice to the appellant or the Council.

Ground (a)

6. An appeal on ground (a) is that planning permission ought to be granted for the matters stated in the notice. Based on the reasons for issuing the notice, the main issues in the ground (a) appeal are:
 - whether the appeal development provides an acceptable standard of residential accommodation, with particular regard to floorspace, light, outlook and amenity space; and
 - the effect of the appeal development on the character and appearance of the area.

Standard of Accommodation

7. At my site inspection, I found each of the flats to be gloomy and cramped, particularly where the main roof slopes to the front of the building. Each of the flats had windows on only one side of the building, restricting the light and outlook occupants could enjoy. In particular, I also noticed that the kitchen/living area in each first floor flat had no external window at all and no flat had access to any amenity space.
8. No information has been provided to satisfy me that any of the flats comply with the relevant Nationally Described Space Standards, referred to by the Council, or that any of the flats enjoy a reasonable level of natural light.
9. I conclude that the appeal development does not provide an acceptable standard of residential accommodation, with particular regard to floorspace, light, outlook or amenity space. In this regard, it does not comply with Policy 7 of the Havering Local Plan 2016-2031, adopted 2021 (the Local Plan), or the Residential Design Supplementary Planning Document, adopted 2010.

Character and Appearance

10. The appeal building sits within a long terrace of dual-pitch roofed buildings which wrap around the corner of High Street and Billet Lane. Each dormer on the appeal building has been built to the edges of the rear roof and each

reaches up to the ridgeline and down to the eaves line. Both have a substantial apron and large areas of cladding between and either side of its windows.

11. As a result, they both appear as bulky and dominant additions to the roof. They are clearly seen from open land to the rear and from neighbouring properties including from the homes on the road to the rear. In this context, they are prominent and incongruous features which are out of character with the area.
12. I appreciate that there are dormers on other properties in the same terrace. But no evidence has been provided to indicate that any of them lawfully exist and in any event, they are considerably smaller and so I do not find them directly comparable to the appeal development before me.
13. The appellant states that the proposed dormer (sic) could be deemed within permitted development in most situations. But there is no ground (c) appeal before me in this case, nor is there any evidence that the dormers before me are permitted development, noting that the appeal building is subdivided into different units and uses which do not generally benefit from permitted development rights for roof extensions.
14. I acknowledge the appellant's view that the dormers are designed to be modest in size compared to the overall host building. But I am not satisfied this is an appropriate test for the size of a dormer roof extension. I appreciate that the dormers may not cause a loss of privacy or overlooking. But these are neutral points and not benefits of the appeal development.
15. I conclude the appeal development harms the character and appearance of the area. In this regard, it does not comply with Policy 26 of the Local Plan or the Residential Extensions and Alterations Supplementary Planning Document, adopted 2011.

Other Matters

16. The Council has indicated that Policy D1 of the London Plan 2021 and Policies 12, 15, 18, 23 and 24 of the Local Plan are relevant to the appeal. But it has not been explained how any of them are directly relevant to the main issues in this case and so I consider they weigh neither in favour of nor against the appeal development.
17. The appellant has asked that I look at the possibility of implementing conditions to ensure the rear dormer (sic) and residential units are built to standards as required for the property. But the appeal development has already been carried out and no conditions have been suggested by the appellant for me to consider. Nor do I consider there are any that could overcome the harm identified above.
18. I have taken into account the Council's comment that paragraph 11(d) of the National Planning Policy Framework (the Framework) is engaged. As such, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
19. I acknowledge that the appeal development provides additional homes and residential floor space and this is a benefit to which I ascribe significant weight. Nevertheless, I consider the harm identified above significantly and demonstrably outweighs the benefit of the appeal scheme when assessed

against the policies of the Framework taken as a whole, and so the Council's housing delivery situation is not a determining factor in this appeal.

Conclusion on Ground (a)

20. Taking all of the above into account, I conclude the appeal on ground (a) fails.

Conclusion

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

Formal Decision

22. It is directed that the enforcement notice is corrected by:

- the deletion of the phrase "4 x 1 bed" from requirement 1, and
- the deletion of all of requirement 3.

23. Subject to these corrections 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.

L Perkins

INSPECTOR