

Appeal Decision

Site visit made on 12 May 2023

by G Powys Jones MSc FRTPI

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

Decision date: 13 June 2023

Appeal Ref: APP/Z5630/D/23/3318100

1 Clarence Villas, Hawks Road, Kingston Upon Thames, KT1 3DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Yang Yang against the decision of the Council of the Royal Borough of Kingston Upon Thames.
- The application Ref 22/02856/HOU, dated 3 September 2022, was refused by notice dated 20 December 2022.
- The development is the erection of hip to gable and rear dormer roof extension with installation of 2no front rooflights to facilitate loft conversion.

Decision

1. The appeal is allowed and planning permission is granted for the erection of hip to gable and rear dormer roof extension with installation of 2no front rooflights to facilitate loft conversion, at 1 Clarence Villas, Hawks Road, Kingston Upon Thames, KT1 3DA in accordance with the terms of the application, Ref 22/02856/HOU, dated 3 September 2022, subject to the condition set out in the attached Schedule.

Procedural matters

2. Since it more accurately describes the development, the description provided in the Council's decision notice has been utilized in preference to that in the application form.
3. The development is substantially complete, and the appellant, in effect, wishes to retain that built. I shall proceed as if the original application had been submitted under section 73A of the Act¹.
4. The Council's officer report shows that the consideration was given, not only to design, which forms the basis of the Council's concerns, but to issues related to neighbouring amenity, transportation and flood risk. The Council raises no objection in respect of the latter issues, and I have no reason to disagree with the Council's assessment on these matters .

Main issue

5. The main issue is the effect of the proposed development on the character and appearance of the host property and surrounding area.

¹ The Town and Country Planning Act 1990 (as amended)

Reasons

6. The appeal property is semi-detached, being one of several similarly designed pairs fronting the busy Hawks Road. All the pairs were designed with hipped roofs, and all retained their original shape until the appeal property was modified.

7. The officer report lists the recent planning history over the past 12 months or so. Included in this list is an approved application² for a Certificate of Lawfulness for a proposed development in respect of:

Erection of single-storey rear extension. Hip to gable and rear dormer roof extension with installation of 2no front rooflights to facilitate loft conversion.

8. The appellant considers that the Council gave this certificate insufficient weight as a material consideration in determining the application to retain that built. In the appellant's view, the difference between what he was entitled to do under the terms of the certificate, and what has been carried out, is modest and the Council have failed to acknowledge this in its assessment or decision.

9. The Council's assessment on design is as follows:

It is noted that the rear dormer to be retained, would not be in accordance with Policy Guidance 39 of the Council's Residential Design SPD as it is not set down from the ridge line of the roof by at least 500mm and the development to be retained includes an increase in ridge height of the original house. Furthermore, due to its scale, mass and bulk it is considered that the hip to gable and rear dormer roof extension appears as a disproportionate and dominant addition to the host dwelling and the surrounding area and it unbalances the symmetry of two semidetached houses.

As such, the hip to gable extension and rear dormer roof extension to be retained, by virtue of its size, mass and bulk and siting constitutes a disproportionate addition to the host dwelling that is visually intrusive and detracts from the character and appearance of the host property and the surrounding area.

10. This appears to corroborate the appellant's point that the existence of the Certificate played little or no part in the Council's assessment of the development. Of course, it is possible that it played no part in the assessment because the development as implemented was not carried out in accordance with the drawings which were comprised in the application for a certificate. However modest the differences, the development, as implemented, required planning permission - the appellant doesn't dispute this, and the Council presumably dealt with the application on its merits as it saw them.

11. I consider the Certificate to be to be a material consideration, and the weight to be attributed to it is a matter for the decision maker. As is apparent from the officer report, the Council gave it little or no weight, but I give it significant weight, not least because it reflects what the appellant would be entitled to do without planning permission as permitted development. On a building of this nature, which is not a heritage asset or located within a conservation area, the government, in effect, grants planning permission, subject to limitations, for hip to gable extensions and rear dormers.

12. I share the Council's view that the the hip to gable modification is clearly seen from the street outside and imbalances the pair, affecting its symmetry. But as

² Ref 22/00258/CPU Dated 31 March 2022

I saw, when viewed from the public realm the difference between what the appellant was entitled to do and what has occurred in practice is in my view minimal, and barely discernible. In these circumstances I consider it would be inappropriate to withhold permission.

13. I therefore conclude that the development, as built, taking account of the permitted development rights accruing, has not materially or harmfully affected the character and appearance of the host property or its surroundings. Accordingly, I find no conflict with the aims of the Council's Core Strategy policy DM10, requiring the character and local distinctiveness of a street or area to be respected, maintained or enhanced when new development is proposed or the objectives of policy D3 of the London Plan directed to optimising site capacity through the design-led approach.

Conditions

14. The Council's suggested conditions regarding the date of commencement, materials, and that the development shall be carried out in accordance with the approved plans do not take account of the fact that the development is substantially complete. They are not therefore necessary.
15. The appellant did not submit a Fire Safety Strategy with the original application, but the Council considered that this could be subject of a condition had planning permission been granted. Given that the works are substantially complete, the Council's suggested Fire Strategy condition cannot be imposed in its suggested form.
16. However, in order to ensure compliance with Policy D12 of the London Plan (LP), and to ensure the safety of future occupants of the building, I consider that a condition relating to fire safety is necessary, consonant with the nature of the development permitted. As the explanatory text to LP policy D12 clarifies the matter of fire safety is covered by Part B of the Building Regulations. Therefore, the condition imposed acts as an additional safeguard so that the Council is aware of the fire safety measures within the building and can make appropriate comments and suggestions, if necessary, when considering the submission required under the terms of the condition imposed.

Other matters

17. All other matters referred to in the representations have been taken into account, including the Council's references to its Supplementary Planning Document (SPD) entitled 'Residential Design'.
18. No other matter is of such strength or significance as to outweigh the considerations that led me to my conclusions.

G Powys Jones

INSPECTOR

Schedule - Condition

1. Within 3 months of the date of this decision a fire safety strategy shall be submitted to the local planning authority for its approval in writing. The strategy shall include the following details:
 - (a) suitably positioned outside space for fire appliances/an evacuation assembly point;
 - (b) appropriate fire alarm and active and passive fire safety measures systems;
 - (c) plans to show a suitable and convenient means of escape and evacuation strategy for all building users and proposals for its updating; and
 - (d) provision made for firefighting.