



Appeal Decisions

Site visit made on 18 July 2023

by James Blackwell LLB (Hons) PGDip

an Inspector appointed by the Secretary of State

Decision date: 10th August 2023

Appeal A Ref: APP/G2625/C/23/3316308

Appeal B Ref: APP/G2625/C/23/3316309

Conifers, 9 Upton Close, Norwich NR4 7PD

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeals are made by Mr Liu Jianping (Appeal A) and Ms Lian Xia (Appeal B) against an enforcement notice issued by Norwich City Council.
 - The notice, Ref 21/00012/ENF No 1, was issued on 11 January 2023.
 - The breach of planning control as alleged in the notice is "Without planning permission, the carrying out of the following operation: the alteration of the roof at 9 Upton Close, including but not limited to an increase in the height of the property."
 - The requirements of the notice are: "(a) To remove the pitched roof above the first-floor eaves, as shown in red in Appendix 1; and (b) To reconstruct the roof in accordance with plans as shown in Appendix 2".
 - The period for compliance with the requirements is within six months of the date on which the notice takes effect.
 - Appeal A 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. 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.
 - Appeal B is proceeding on the grounds set out in section 174(2)(f) and (g) of the 1990 Act.
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Summary Decision

1. Appeal A is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision. No further action is taken in respect of Appeal B.

Formal Decisions

Appeal A

2. It is directed that the enforcement notice is corrected by deleting paragraph 3 and replacing it with the following new paragraph 3:

THE BREACH OF PLANNING CONTROL ALLEGED

Without planning permission, alterations to the form and height of the roof.

3. Subject to this correction, Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely alterations to the form and height of the roof at Conifers, 9 Upton Close, Norwich NR4 7PD and subject to the following condition:

- 1) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no roof alterations or enlargements permitted by Classes B or C of Part 1 of Schedule 2 of the Order shall be carried out on the application site.

Appeal B

4. I take no further action in respect of Appeal B.

Preliminary Matters

5. Planning permission was granted by the Council on 15 May 2019¹ in connection with the appeal property for "Two storey side, front and rear extensions. Changes to fenestration. Changes to roof form. Changes to boundary wall and driveway arrangements" (2019 Permission). The as-built development departs from the plans approved under the 2019 Permission in a number of ways. One of these deviations comprises an increase in the height of the dwelling. This height increase forms the basis of the enforcement notice (EN), as the Council contends it harms the street scene.
6. The other deviations from the approved plans, which comprise changes to fenestration and alterations to the roof arrangement of the single-storey rear extension, are not included within the matters alleged to constitute the breach. In turn, these matters do not fall to be considered as part of this appeal.
7. As originally drafted in the EN, the matters alleged to constitute the breach of planning control were "Without planning permission, the carrying out of the following operation: the alteration of the roof at 9 Upton Close, including but not limited to an increase in the height of the property". This wording is vague, and does not give sufficient clarity with regard to the matters alleged to constitute the breach. To ensure greater precision, I have therefore corrected the allegation to refer specifically to alterations to the form and height of the roof. I am satisfied that this correction will not prejudice either party, as the substance of the matters alleged remains the same.

Main Issue

8. In this context, the main issue is the effect of the development on the character and appearance of the area.

Reasons

9. The appeal site comprises a large detached dwelling, which is located within a right-angled bend on the southern side of Upton Close. The road is characterised by other detached dwellings, which vary considerably in terms of size, height and design. The differences in appearance between dwellings add interest to the street scene, and contribute positively to its overarching character.
10. The substantive two-storey part of the appeal dwelling features a hipped roof. The height of the ridge is approximately 9.05 metres, whereas the approved height under the 2019 Permission was 7.9 metres. This represents an increase of approximately 1.1 metres over and above the consented position.

¹ Planning permission Ref 19/00135/F

11. Nonetheless, the eaves height of the dwelling broadly aligns with the nearest neighbouring property, which helps reduce the perception of the height increase. Moreover, the roof pitch follows a gentle gradient, which means only a small part of the roof reaches 9.05 metres. There are also notable gaps between the appeal dwelling and its closest neighbours, which ensures the variation in height with other neighbouring properties is not easily appreciable. Whilst the dwelling does sit taller than other houses along the road, these factors mean the additional height of the roof is barely perceptible from street level.
12. As highlighted, there is also notable variation between the height of properties along the road, as well as between roof style and type. In turn, there is no strict uniformity with regard to height or form that the appeal property must adhere to in order to assimilate effectively with neighbouring dwellings. Even where the additional height can be noticed, it therefore does not cause undue harm to the street scene.
13. Given its location within a right-angled bend, the appeal property does occupy a prominent position along the road. Whilst the overall size of the appeal dwelling adds to its prominence, this is primarily attributed to its large footprint, which has already been approved as part of the 2019 Permission. I do not consider that a 1-metre reduction in height would make a meaningful difference to the dwelling's impression of mass or scale, nor to its overarching prominence within the street scene.
14. For these reasons, I am satisfied that the development preserves the character and appearance of the area. It is therefore consistent with Policy DM3 of the Norwich Local Plan (2014), which says proposals should respect, enhance and respond to the character and local distinctiveness of the area in which it is located. This includes a requirement to ensure appropriate attention has been given to the height, scale, massing and form of new development.

Other Matters

15. Concerns have been raised as to the length of time it has taken to complete the renovations of the appeal dwelling, and the visual impact of the site during construction. However, any such impact is temporary and would be of limited relevance to the overall acceptability of the development. Similarly, any corresponding impact on property values would not be pertinent to the scheme's planning merits. Whilst concerns have also been raised with regard to the development's impact on daylight, the Council has indicated that the roof height does not harm the living conditions of neighbouring occupiers in this regard. Based on my observations during site visit, I have no reason to disagree with this conclusion.
16. It is also worth highlighting that this appeal has been determined on its planning merits. The enforcement regime is intended to be remedial and not punitive, and a finding in favour of the appellants does not undermine the importance or integrity of the planning process. Indeed, any future applications would also be assessed on their own merits.
17. Whilst I acknowledge the earlier appeal in connection with the appeal site², the Inspector's reasoning suggests that this scheme was primarily refused due to

² APP/G2625/D/18/3210434

excessive increases to the width and depth of the two-storey element of the property. The proposed use of white render was also considered harmful. Whilst the Inspector did suggest that the roof would appear relatively bulky, there is no suggestion that this was a determinative factor with regard to the appeal. The Inspector noted that "as an architectural feature the resulting hipped roof would not be out of character in the street scene". In any event, the dwelling consented under the 2019 Permission is notably smaller than the dwelling proposed under the earlier appeal scheme, and the as-built roof is also lower. In turn, there are material differences between the two schemes. The appeal decision therefore only carries limited weight in my decision.

Conditions

18. Whilst no conditions have been suggested by the Council, I consider that it is appropriate to restrict permitted development rights which could otherwise allow further alterations or enlargements to the roof of the appeal dwelling. This will ensure that the Council retains control in respect of any further changes or alterations that may impact on the street scene.

Conclusion

19. For the reasons given above, I conclude that Appeal A succeeds on ground (a) and the deemed planning application is approved. The EN, as corrected, will therefore be quashed and it follows that Appeals A and B on grounds (f) and (g) do not fall to be considered.

James Blackwell

INSPECTOR