



Appeal Decision

Site visit made on 7 August 2023

by H Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2023

Appeal Ref: APP/P0119/C/22/3313225

262 Soundwell Road, Bristol, BS15 1PN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the Act) as amended.
- The appeal is made by Mr Besnik Dyli against an enforcement notice issued by South Gloucestershire Council.
- The notice was issued on 15 November 2022.
- The breach of planning control as alleged in the notice is: Without planning permission, alterations to the roof including raising of the ridge and front pitch, installation of rear dormer, and cladding of side elevation.
- The requirements of the notice are to:
 1. Remove the rear dormer from the property.
 2. Remove the cladding from the side elevation of the property and replace with render as shown on the approved proposed plan from P19/19413/F, attached at Annexe 1 for illustrative purposes only.
 3. Reinstate the roof to that as shown on the approved proposed plan from P19/19413/F, attached at Annexe 1 for illustrative purposes only. For the avoidance of doubt, this also includes returning the ridge height and front pitch height of the roof to that of the adjoining property.
- 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. 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 of Decision: The appeal succeeds in part and permission for that part is granted, but otherwise the appeal fails and the enforcement notice is upheld, in the terms set out below in the Formal Decision.

Preliminary Matters

1. The site previously secured planning permission¹ for 'Alteration to pitch on existing roof, installation of first floor side extension and erection of front porch, installation of driveway and creation of vehicular access'. This permission included changes to the rear roof elevation only, to accommodate a first floor side extension.
2. The development subject to the notice includes an increase in the height of the main roof ridge and associated roof pitch, the installation of a rear dormer and cladding of the top of the side elevation. These elements were not part of the approved scheme.

¹ Application reference P19/19413/F, approved with conditions on 11/02/2020.

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

3. The ground of appeal is that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The terms of the deemed planning application are derived from the allegation. Hence, planning permission is sought for alterations to the roof including raising of the ridge and front pitch, installation of rear dormer, and cladding of side elevation.

Main Issues

4. Having regard to the Council reasons for issuing the notice, a main issue is the effect of the development subject to the notice on visual amenity. While not mentioned in the reasons for issuing the notice, a third party has stated that the development has taken away the privacy of their garden. Therefore, the main issues in this appeal are the effect of the development subject to the notice on the:
 - Character and appearance of the host dwelling and the surrounding area; and
 - Living conditions of occupants of neighbouring dwellings, with regard to privacy.

Reasons - Character and appearance

5. The appeal site is a two storey terraced dwelling. It is in a predominantly residential area, but there are also shops, businesses and a petrol station nearby. There is no consistency or uniformity in terms of design, scale, proportions, materials, or roof form in the properties in the immediate and wider area around the appeal site.
6. The development to which the deemed planning application relates consists of a modest increase in the height of the roof ridge, the addition of a flat roof dormer to the rear elevation and the addition of cladding to the side elevation of the dwelling. These three elements have different effects on character and appearance, so I have considered them separately.

Roof ridge

7. The dwelling sits at the end of a run of 4 similar, modest sized, terraced dwellings, which are attached at the other end to a run of larger and higher terraced properties. Across a pedestrian walkway to the side of the appeal dwelling is another run of modest terraced dwellings. Opposite the site there are larger semi-detached dwellings. Within the immediate terrace, there was already a modest difference in the height of the roof ridge between 258 and 260 Soundwell Road, and there is a significant change in both the roof ridge and the building line between Nos 256 and 254. The terrace across the pedestrian walkway from the appeal site has 5 very different and distinct roof ridge heights across a short run of dwellings. In addition, the surrounding area has frequent steps in the roof ridges of terraces, as they follow the topography.
8. As such, the raising of the height of the roof ridge and front pitch, creating a modest difference in ridge height when compared to the adjoining dwelling, reflects a distinctive characteristic of the area and is in keeping with the character and appearance of the immediate and wider area.

Dormer

9. The design of the dormer does not comply with all of the elements of guidance set out in the South Gloucester Council Household Design Guide SPD (March 2021). While the SPD is a material consideration, it does not have the same status as policy. The dormer is on the rear elevation and is not visible within the main streetscene along Soundwell Road which limits its visual impact. The dormer extends the full width of the dwelling but is set down from the main ridge (albeit a ridge that has been raised by a modest amount) and set up from the approved rear eaves. As a result, it does not appear significantly disproportionate to or out of scale with the rear roof slope.
10. Although the dormer is visible from the walkway to the side of the site and Castle Road to the rear, dormers are not uncommon or unexpected elements on rear elevations in the area. During my site visit I viewed a number of other rear dormers in the surrounding area which are of a similar scale, design and location to the appeal dormer, some of which are finished in cladding. While I have no detail of the planning history of these other dormers, and the context varies, they form part of the established character and appearance of the area.
11. Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) as amended, provides permitted development rights for the enlargement of a house consisting of addition or alteration to its roof. I acknowledge that the dormer subject to this appeal does not benefit from these permitted development rights. Notwithstanding this, the GPDO does permit the construction of rear dormers of a similar scale and design, on terraced dwellings of a size and location commensurate with the appeal site, subject to limitations. A dormer constructed to comply with permitted development rights would have a similar impact on character and appearance to that of the appeal dormer.
12. The rear elevation of the dormer is surfaced in cladding. While this is a different finish to the smooth rendered walls and tiled roof, the simple white finish of the cladding is not significantly out of keeping with the plain surface materials which characterise the rear elevations of the terrace. I note that other rear dormers in the area are also surfaced in cladding.
13. Overall, the scale, proportions and design of the rear dormer is not overly prominent or incongruous and does not unbalance the terrace. It has no impact on the main front streetscene and is an acceptable element to the rear.

Cladding of site elevation

14. As set out above, the cladding of the rear elevation of the dormer is acceptable. However, in addition the side elevation of the dwelling, between eaves and ridge height, has also been cladded and this has a different visual impact. There is a stark line and a marked step in the surfacing across the width of the side elevation, where the cladding ends and the render begins.
15. This contrast is visually jarring and out of keeping with the surrounding area where the exposed sides of buildings tend to have a consistent finish. The cladding serves to exaggerate the prominence of the side elevation of the dwelling when viewed from the rear and the walkway to the side. Consequently, the cladding on the side elevation has a harmful impact on the character and appearance of the dwelling and the immediate area.

Conclusion on character and appearance

16. I conclude that the raising of the ridge and front pitch and installation of rear dormer do not cause unacceptable harm to the character and appearance of the host dwelling or the surrounding area. Consequently, these elements of the development comply with Policies CS1 (High Quality Design) of the South Gloucestershire Local Plan: Core Strategy (Adopted 2013) (CS) and PSP1 (Local Distinctiveness) and PSP38 (Development Within Existing Residential Curtilages, Including Extensions and New Dwellings) of the South Gloucestershire Policies, Sites and Places Plan (Adopted 2017) (PSPP). Together, amongst other things, these policies seek to ensure good design which responds to local characteristics.
17. However, I conclude that the cladding of the side elevation, does cause unacceptable harm to the character and appearance of the host dwelling and the surrounding area. Consequently, this element of the development does not comply with Policies CS1 of the CS and PSP1 and PSP38 of the PSPP.

Reasons – Neighbouring privacy

18. Given the close arrangement of dwellings within a tightly knit urban area, there are already significant levels of mutual overlooking between properties from their first floor windows. The appeal development adds additional windows at a higher level, but the nature and type of overlooking would not be significantly different. Consequently, the levels of privacy experienced by neighbouring occupiers is not significantly reduced.
19. I conclude that raising of the ridge and front pitch, installation of rear dormer, and cladding of side elevation, do not have an unacceptable impact on the living conditions of occupants of neighbouring dwellings, with regard to privacy. Consequently, the development complies with Policy PSP38 of the PSPP, which amongst other things, seeks to ensure that development does not prejudice the amenity of neighbours or the provision of adequate private amenity space.

Other Matters relating to ground (a)

20. The Party Wall implications of the development are not for me to consider under the provisions of a section 174 planning appeal and are covered by other legislation not under my remit.

Conclusion on ground (a) and the deemed planning application

21. For the reasons set out above, I conclude that the raising of the ridge and front pitch and installation of rear dormer do not harm character and appearance or living conditions. However, the cladding of the side elevation, does harm character and appearance. As the ridge and dormer are physically and functionally severable from the cladding, I consider a split decision to be appropriate in this case.
22. Therefore, I intend to allow the ground (a) appeal and grant planning permission in so far as it relates to the roof ridge and dormer, but not in so far as it relates to the cladding.

Split decision and the effect of Section 180 of the Act

23. Although a split decision will be issued, the notice will not be amended regarding the requirements to remove the rear dormer from the property and to reinstate the roof. S180(1) of the Act provides that where, after the service of an enforcement notice, planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as it is inconsistent with that permission.
24. In this case, the appeal on ground (a) will be allowed in part. If the requirements of the notice were varied to exclude that part of the development for which planning permission is being granted, then this could give rise to two inconsistent permissions, one being granted under S173(11) of the Act as a variation of cutting down the requirements. To avoid this possibility the requirements of the notice will not be varied in this way and reliance will be placed on S180 of the Act to mitigate the effect of the notice in so far as it is inconsistent with the permission. Thus, the notice will cease to have effect with regard to removal of the rear dormer and reinstatement of the roof.

The appeal on ground (f)

25. The appeal on this ground is that the steps required by the notice to be taken, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters, or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. Planning permission will be granted for the raising of the ridge and front pitch and installation of rear dormer. As such, there is no need to consider ground (f) in relation to these elements. Consequently, requirements 1 and 3 of the notice, which are to remove the rear dormer from the property and reinstate the roof to that as shown on the approved proposed plan, do not fall to be considered under the appeal on ground (f).
26. Requirement 2 of the notice is to remove the cladding from the side elevation of the property and replace with render. I have found the cladding of the side elevation to be unacceptable and upheld the notice in this regard. There are no lesser steps which would achieve the removal of the cladding and rendering of the side elevation and hence remedy the breach. On this basis, in so far as it falls to be considered, the appeal on ground (f) fails.

The appeal on ground (g)

27. The appeal on this ground is that any time period specified in the notice falls short of what should reasonably be allowed. Planning permission will be granted for the raising of the ridge and front pitch and installation of rear dormer. As such, ground (g) does not fall to be considered in relation to these elements.
28. Requirement 2 of the notice is to remove the cladding from the side elevation of the property and replace with render. This is a relatively straightforward task. The occupants would not need to move out of the dwelling and the works do not involve particularly specialist contractors or materials. I therefore consider the 3 months for compliance specified in the notice to be reasonable and realistic. I have been presented with no compelling evidence as to why the time would need to be extended. On this basis, in so far as it falls to be considered, the appeal on ground (g) fails.

Overall Conclusion

29. For the reasons given above, I conclude that the appeal should succeed in part only, and I will grant planning permission for the raising of the ridge and front pitch and installation of rear dormer. Otherwise, I shall uphold the notice and refuse to grant planning permission for the cladding of the side elevation. By virtue of s180 of the Act, the requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant.
30. The appeal on grounds (f) and (g) fail, in so far as they apply to the cladding of the side elevation, and do not fall to be considered in regard to raising of the ridge and front pitch and installation of rear dormer.

Formal Decision

31. The appeal on ground (a) is allowed, insofar as it relates to raising of the ridge and front pitch and installation of rear dormer, 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 raising of the ridge and front pitch and installation of rear dormer at 262 Soundwell Road, Bristol, BS15 1PN.
32. The appeal is dismissed, and the enforcement notice is upheld, insofar as it relates to cladding of the side elevation, and planning permission is refused on the application deemed to have been made under s177(5) of the 1990 Act as amended, for the cladding of the side elevation at 262 Soundwell Road, Bristol, BS15 1PN.

H Davies

INSPECTOR