



Appeal Decision

Site visit made on 9 January 2024

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2024

Appeal Ref: APP/U3935/C/23/3329344

83 Upham Road, Swindon SN3 1DL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr B Bassi against an enforcement notice issued by Swindon Borough Council.
 - The notice was issued on 16 August 2023.
 - The breach of planning control as alleged in the notice is without planning permission the unauthorised operational development of the erection of a large box dormer on the rear of the dwelling on the site.
 - The requirements of the notice are: (a) Remove the box dormer from the rear elevation of the dwelling on the site. (b) Remove all resultant materials from the site following compliance with (a).
 - The period for compliance with the requirements is three 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.
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Decision

1. It is directed that the enforcement notice be varied by in paragraph 5 after step (b) inserting the following steps: *"Alternatively: (c) Modify the dormer to accord with drawing number 17/063 (i) Rev D to make it comply with the terms (including conditions and limitations) of the planning permission reference S/HOU/17/2106/CHHO dated 15 June 2018. (d) Remove all resultant materials from the site following compliance with step (c)."* Subject to these variations the appeal 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 the erection of a box dormer on the rear of the dwelling on land at 83 Upham Road, Swindon SN3 1DL referred to in the notice.

Preliminary Matters

2. The enforcement notice attacks a box dormer erected on the original rear roof slope of the dwelling. By requiring the dormer to be removed, the purpose of the notice is clearly to remedy the breach of planning control. It is also possible to achieve that purpose however by making unauthorised development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land. In June 2018, permission was granted to erect single storey and two storey rear extensions to the dwelling, along with a rear dormer¹. Since that permission is still valid, having been implemented by erecting the extensions, the approved dormer

¹ Council Ref: S/HOU/17/2106/CHHO.

could be erected following removal of the unauthorised dormer. The approved dormer would occupy part of the roof slope currently taken up by the unauthorised dormer. Therefore, modifying the unauthorised dormer to comply with the above permission represents an obvious alternative to removal which would overcome the planning difficulties at less cost and disruption.

3. No appeal was made on ground (f)- *'that the steps required by the notice to be taken...exceed what is necessary to remedy any breach of planning control....'* Nevertheless, after seeking the views of the main parties, for the reasons set out above I shall exercise the power available in s176 (1)(b) of the Act to vary the terms of the notice, to include complying with the planning permission as an alternative to removing the dormer. This would not cause uncertainty, as it would be abundantly clear to the appellant what must be done to comply with the notice if it were to be upheld. There would be no injustice to the Council since the breach would still be remedied if the notice were to be complied with.
4. The revised National Planning Policy Framework (the Framework) was published on 19 December 2023. The main parties have had an opportunity to comment on the implications of the Framework in relation to the appeal and I have taken it into account in my Decision.

Ground (a) appeal

Main Issue

5. The main issue in this appeal is the effect of the dormer on the character and appearance of the dwelling and the surrounding area.

Reasons

6. The appeal property contains a two-storey semi-detached dwelling. Originating with a hipped roof form, the dwelling has subsequently been extended to the side at two storeys incorporating a gable ended roof treatment. More recently, two storey and single storey extensions have been added at the rear.
7. The dwelling is located in an established residential area, largely made up of neatly arranged pairs of dwellings that are well-balanced in appearance, incorporating hipped as well as gabled roof treatments and utilising similar external materials. Extensions to dwellings in the locality largely respect and reflect these prevailing characteristics. Consequently, the dwelling and the environs possess a pleasant and harmonious suburban residential character and appearance.
8. The roof line of the dormer is roughly equal to that of the highest part of the roof of the dwelling. However, the dormer does not occupy the entirety of the original rear roof slope. The right-hand side elevation of the dormer is set well away from the boundary with the attached property and the rear-facing elevation is well up from the rear eaves line of the dwelling. As a result, the dormer sits reasonably comfortably on the rear roof slope, being viewed as an addition of modest scale relative to the larger proportions of the dwelling and retaining a significant portion of the original roof profile.
9. The left-hand elevation of the dormer adjacent to the side extensions incorporates a sloping roof section which, being at a similar angle to the original roof, helps to integrate the dormer visually with the dwelling. Cladding the sides and rear-facing elevations in tiles of a similar colour and profile to

those used on the rest of the roof further assists in this respect. The same could also be said of the windows in the dormer which, being arranged to align with those in the rear elevation below, reflect and respect the balanced appearance of the dwelling.

10. Consequently, the dormer is well assimilated visually with the dwelling and the general pattern of development in the vicinity, identified above. The dormer does not appear overlarge or awkward on the rear elevation of the dwelling and is not viewed as a dominant or incongruous built feature, either from Upham Road, South View Avenue or from neighbouring properties.
11. Erecting a box dormer on a two-storey dwelling is inconsistent with advice in the Council's Residential Extensions and Alterations Supplementary Planning Document. However, in the absence of any detriment to the character of the dwelling or the street scene, in the particular circumstances of this appeal I afford that document limited weight.
12. The size and design of the dormer is significantly different to that approved. There are few similar dormers in the vicinity. Additionally, given the substantial size of the previous extensions, it is unlikely that a structure of similar scale could be erected on the roof of the property within the limits of 'permitted development'², if the dormer were to be removed. These factors also carry little weight however, in the absence of planning harm.
13. Therefore, the dormer has not caused unacceptable harm to the character and appearance of the dwelling nor that of the surrounding area and it accords with Policy DE1 of the Swindon Local Plan, which requires high standards of design for all types of development. The dormer is also consistent with the Framework, which at chapter 12 seeks to achieve well-designed and beautiful places through, amongst other things, ensuring that development is visually attractive as a result of good architecture and sympathetic to local character.

Conclusion

14. The dormer does not cause unacceptable harm to the character and appearance of the dwelling or the surrounding area and accords with the Development Plan, taken as a whole. Therefore, I conclude that the appeal should succeed on ground (a) and planning permission will be granted. No planning conditions are necessary.

Stephen Hawkins

INSPECTOR

² The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).