



Appeal Decision

Site visit made on 16 October 2023

by Elizabeth Jones BSc (Hons) MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2024

Appeal Ref: APP/W2465/C/22/3310430

105 Knighton Church Road, Leicester, Leicestershire, LE2 3JN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Jean-Marc Galiana against an enforcement notice issued by Leicester City Council.
- The notice was issued on 4 October 2022.
- The breach of planning control as alleged in the notice is without planning permission construction of second floor extension at rear, increase in height of the main ridge and installation of a dormer extension to front of house.
- The requirements of the notice are to:
 - 5.1 Demolish the front dormer extension and restore that part of the roof to its former state and condition.
 - 5.2 Alter the rear second floor extension, the rear dormer on the main roof and increase in height of the main roof by reducing the height of the main roof and the roof over the rear outrigger and sloping in walls of the rear extension and side extension (facing 107 Knighton Church Road) so that the development is in accordance with the plans ref: PL-SP-002 – Proposed Site and Location Plan, PL-P-003 – Proposed Second Floor and Roof Plan, PL-E-004 – Proposed Elevations C & D, PL-E-005-Elevation attached to this notice.
 - 5.3 Remove all resultant materials from the property as a result of complying with the above steps.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in sections 174(2)(a) 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 Decision: The appeal is dismissed, and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Procedural Matter

1. A revised National Planning Policy Framework (the Framework) came into force in December 2022. This replaces the former version referred to in the submissions by the parties. Apart from a change in paragraph numbers, the revision does not materially alter the national planning policy approach in respect of the main issues raised in this appeal and therefore the main parties have not been prejudiced by its publication.

The Site and its Planning History

2. Planning permission was granted in 2019 Ref:20191539 for a “dormer extension to rear, increase height of roof and installation of rooflight to front, Juliet balcony and rooflight to rear (class C3); alterations (amended plans 08.10.2019)” (hereafter the 2019 permission).
3. Building works subsequently undertaken differ from the plans approved under the 2019 permission namely – an increase in the height of the main roof ridge

by 0.665m, the construction of a rear dormer on top of the existing rear outrigger is higher by 0.57m, the design and materials differ from those approved and a dormer has been constructed on the front elevation.

4. Planning permission was refused in 2021 Ref: 20201336 for "*retrospective application for a raised ridge height, construction of dormer extension at front; dormer extension at rear of house (Class C3) (amended plans received 09/12/2020)*".
5. The notice requires the development be modified to comply with the terms of the 2019 permission. My assessment is thus a comparison between the "as built" development and that, the subject of the 2019 permission.

The ground (a) appeal and the deemed planning application

Main Issues

6. The main issues are the effect of the development on i) the character and appearance of the appeal property and the surrounding area, and ii) the living conditions of the occupants of 107 Knighton Church Road, with particular reference to outlook and light.

Reasons

Character and appearance

7. The appeal property is a semi-detached house within a predominantly residential area. The majority of dwellings within the immediate area are semi-detached or terraced dwellings. Although there exists a variety of styles, designs and materials, there is a degree of symmetry which contributes to the rhythm and pattern of the street scene and its character and appearance.
8. The Council's Supplementary Planning Document Residential Amenity (2008) (SPD) seeks to avoid mixing different types of window and doors on the front elevation and that new windows should normally line up vertically and horizontally with those of the original house.
9. I saw at my site visit a number of properties in Knighton Church Road with front dormer extensions which are visible from the highway and show some diversity in style, design and materials. Whilst I do not know the full circumstances, I accept that some of these dormers do not adhere to the SPD guidance in that they do not line up vertically and horizontally with windows in the original house.
10. In the case of the appeal property, albeit partially obscured by the front gable, the dormer window on the front elevation is readily visible from the public realm when approaching from the west. Due to its position on the roof slope, set close to the front gable, the dormer results in an unsympathetic feature which fails to integrate with the character and appearance of this semi-detached property.
11. Although the front door of the appeal property is not fully vertically aligned with the first-floor window above, the relationship between the front door and window is replicated in similar pairs of semi-detached properties in the street, contributing to the rhythm and pattern of the street scene.

12. Turning to the second-floor rear extension, this has resulted in an increase in the original ridge height which has unbalanced this pair of semi-detached properties. In addition, due to its size, scale, height and design the development has a box like appearance which appears bulky and dominates the appeal property. The brickwork construction on the side elevation further emphasises the bulk and dominating appearance.
13. For the reasons given above, I conclude that the appeal development is harmful to the character and appearance of the appeal property and surrounding area by comparison to the scheme approved by the 2019 permission. Thus, there is conflict with Policy PS10 of the City of Leicester Local Plan (2006) (LP) and Policy CS03 of the Leicester City Core Strategy (2014) (CS) and the Framework which seek to ensure that development is of high-quality, well-designed and contributes positively to the character and appearance of the local natural and built environment. It is also at odd with the guidance contained in the Council's SPD.

Living conditions

14. I have approached the issue of outlook from the viewpoint of whether there is an overbearing development rather than in the sense of the loss of a view.
15. The appellant's shadow analysis appears to indicate there is no difference between the appeal development and that approved by the 2019 permission. Given the increase in ridge height, it is reasonable to assume that the appeal development has resulted in some level of additional shadow to the rear garden of No 107 at certain times of the day. However, any additional shadow is unlikely to be materially harmful to the occupants' enjoyment of their garden. Moreover, whether or not the appeal development complies with the 45° guidelines in the Council's SPD, the impact of the development regarding outlook and loss of light to the nearest habitable room at the rear of No 107, is unlikely to be materially harmful to the occupants when compared with the 2019 permission. In any event, the Council has no evidence of its own, or from others, of any significance so as to seriously contradict or otherwise the appellant's claim that the submitted shadow analysis is accurate.
16. As such, I conclude that the appeal development complies with the overall aims of LP Policy PS10, CS Policy CS03, Council's SPD and the Framework in terms of the effect on the living conditions of the occupants of No 107 having regard to outlook, loss of light to the nearest habitable room rear window and overshadowing of the rear garden.

Other Matters

17. My attention has been drawn by the appellant to the height and variety of roof types of several properties in Knighton Church Road. For example, No 84 forms one side of a pair of semi-detached properties of similar height and design. No 86 is detached from No 84 and of a different design. Thus, the height difference between these two properties is seen in a different context and is not comparable with the appeal property. Nos 86, 88, 90 and 92 form part of a row of houses of varying styles and designs. Similarly, Wallis Court, is a three-storey detached development comprising a number of properties whereas No 113 is a two-storey semi-detached property. Thus, whilst there exists a height difference between Nos 90 and 92, and Wallis Court and No 113, these properties are different in style with different roof forms. Consequently, these

examples are not directly comparable with the symmetrical semi-detached character of the appeal property and its location in the street scene. Whilst I have not been provided with details concerning No 88, as a side extension, it does not mirror the appeal development before me.

18. The representations in support of the appeal are noted but are not determinative to my decision.
19. I note the appellant's willingness to clad the rear exposed brickwork before the dormer in zinc and to obscure glaze the bathroom window. In my view a zinc finish of this nature would not be sufficient to overcome the identified harm to the character and appearance of the appeal property and the surrounding area. Moreover, I have been given no substantive evidence that the appeal development is harmful to the neighbours' privacy. Thus, this requirement is not necessary.

Conclusion

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

The appeal on ground (g)

21. The ground of appeal is that the time given to comply with the requirements of the enforcement notice is too short. The appellant seeks 12 months to comply with the notice due to personal family health issues.
22. In my view, given the identified harm to the character and appearance of the appeal property and the surrounding area, a compliance period of 12 months is too long.
23. From all I have seen and read I consider that a period of 6 months represents a reasonable length of time for compliance and strikes the appropriate balance between the legitimate interests of enforcing planning control and the interests of the appellant. If this reasonably proves not to be the case, the appellant can ask the Council to extend the period specified in accordance with s173(9) in the notice using their powers under s173A(1) of the 1990 Act as amended. The response to such a request would be a matter for the Council, in the light of all the circumstances at the time. Therefore, the appeal on ground (g) fails.

Formal Decision

24. The appeal is dismissed, the enforcement notice is upheld and the planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Elizabeth Jones

INSPECTOR