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# Appeal Decision

Site visit made on 30 January 2024

**by K Williams MTCP (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 05 February 2024**

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**Appeal Ref: APP/N4720/W/23/3332973**

**6 Ebor Mount, Hyde Park, Leeds, LS6 1NS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Andy Ip against the decision of Leeds City Council.
  - The application Ref 23/01079/FU, dated 19 February 2023, was refused by notice dated 4 May 2023.
  - The applications sought planning permission for 'alterations including conversion of basement to habitable accommodation and enlarged dormer windows to front and rear to house in multiple accommodation' without complying with a condition attached to planning permission Ref 21/09034/FU dated 7 October 2021.
  - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the approved plans listed in the plans schedule.
  - The reasons given for the conditions is: For the avoidance of doubt and in the interests of proper planning.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. It is clear from the appeal submissions and from my site visit that dormer windows have already been constructed. I am therefore considering the appeal as retrospective.
3. The Government published a revised National Planning Policy Framework (the Framework) in December 2023, replacing the version published in September 2023. Those parts of the Framework most relevant to this appeal have not been significantly amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.

## Background and Main Issues

4. Planning permission was granted for enlarged dormer windows to the front and rear of the appeal property under application reference 21/09034/FU. Condition 2 of that approval requires development to be built in accordance with the approved plans.
5. The appellant seeks to vary planning condition 2 relating to the approved plans and alter the plan reference contained within the associated plan schedule on the decision notice. The proposed changes on the submitted plans to be

changed relate to the overall materials and window arrangements. The Council refused to vary the condition to the front and rear dormer windows considering that they were an unsympathetic scale, form, materials and detailing.

6. The main issue therefore is whether condition 2 is necessary to safeguard the character and appearance of the area and the host property.

### **Reasons**

7. The appeal property is a tradition red brick mid-terrace property situated within a neighbourhood of buildings of similar construction. A significant number of these in the vicinity feature dormer windows to the front and rear. These are characteristic of the area. Dormer materials vary but tend to be white cladding or hanging tiles. Most are set in from the side of the host property and also tend to be set back from eaves and smaller than the appeal proposal. However, those with similar materials to the main roof retain a greater semblance of the original simple traditional pitched roof form, which is also characteristic of the area.
8. Large box dormers are features in the area, the overall form of this development incorporating a flat roof is therefore not wholly out of character. The overall position of the proposed dormers on the roof (the set-down, set-in and set-back) is similar to those on the approved drawings. The proposed windows on the front would also be in a similar position and a similar size. There is a reduction in glazing on the rear, but this window roughly aligns with the one below. The scale and form of the dormer windows does not differ significantly from the approved development, and I do not have substantive evidence in this respect why the scale and form on their own would now be harmful.
9. However, the approved drawings show tiles underneath the windows on both front and rear dormer windows and on the dormer cheeks. This ties with the host property and would break up the massing. However, the proposed materials are overtly different. The consistent use of the horizontal grey cladding does not provide any relief or variation, and as such it emphasises the overall scale. Because it is a significantly different hue to the host roof and given the size of the dormer, which are large, they appear as dominant and incongruous on the host building at the front and rear and in the surrounding area.
10. I acknowledge that there are some dormer windows which have a similar appearance to those on the host dwelling, particularly utilising white cladding. However, some of the examples provided do not exactly reflect the appeal proposal, appearing smaller in scale. Most appear narrower, lower on the roof or the dormer cheeks match the materials or the colour of the building roof. I also do not know if the similar examples provided were subject to planning permission or affect both the front and rear of the properties. I am also required to determine this appeal on its own merits and the presence of similar development does not justify harm and therefore carries little weight in these circumstances.
11. Furthermore whilst I note the similarities to some larger dormers in the area, in the context of immediate neighbouring properties, the absence of dormer windows at No 8 Ebor Mount on the front and rear and smaller scaled or darker

recessive materials on nearby properties serve to make the dormer windows highly visible on both roof slopes and within the area.

12. I am also mindful of the advice contained within paragraph 140 of the Framework, which requires local planning authorities to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).
13. It is understood that the cladding may be more hardwearing and less likely to become loose, and this would be a benefit to the appellant. However this does not outweigh the harm to the host dwelling and surrounding area.
14. Although I have found the scale and form and window details of the dormers to be acceptable, this is not outweighed by the use of the proposed materials, which would not safeguard the character and appearance of the area or the host property. Consequently, the development is contrary to Policy P10 of the Leeds City Council Core Strategy (as amended by the Core Strategy Selective Review 2019) and Policies BD6 and GP5 of Leeds City Council Unitary Development Plan Review 2006. Together these require extensions to be of a high quality design and respectful of the original scale of their hosts, including their roof form and reinforce local distinctiveness. The proposal would also be in conflict with HDG1 of the Leeds Householder Design Guide (2012) which requires extension to pay particular attention to materials.

### **Conclusion**

15. For the reasons given above, and having regard to all other matters raised, the proposal conflicts with the development plan as a whole. I conclude that it is necessary to retain the current condition and that the appeal should be dismissed.

*K Williams*

INSPECTOR