



Appeal Decision

Site visit made on 5 March 2024

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 10 April 2024

Appeal Ref: APP/J4423/C/23/3327003

283-285 Shoreham Street, Sheffield S1 4SS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Ashley Dent of Tash Properties against an enforcement notice issued by Sheffield City Council.
- The enforcement notice was issued on 27 June 2023.
- The breach of planning control as alleged in the notice is *Without planning permission (1) construction of a rear dormer extension to the property and (2) the change of use of the property comprising the use of the second floor as a separate residential flat within the property.*
- The requirements of the notice are to demolish and remove the unauthorised dormer extension, to make good any damage to the host property using matching materials and to remove from the land any waste materials; and to cease the unauthorised use and to remove from the property the internal divisions creating the unauthorised second floor flat and restore the property to the previously existing layout [on plans referred to].
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary Decision: the appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Main Issues

1. The main issues in the appeal concern the effects of the development on the living conditions of the occupants of the second floor flat, and the effects of the dormer extension on the character and appearance of the host property and the surrounding area.

Reasons

Background

2. The Council's reasons for issuing the notice related to the effect of the design and form of the newly-constructed rear dormer. Without the rear dormer, it is unlikely (says the notice) that the second floor flat would have sufficient head height in order to provide an adequate standard of living for its occupants. These are therefore the main questions in the appeal.
3. In support of its case against the refusal of planning permission, however, the Council refers to its officer's report refusing planning permission for the same development (against which I understand there to be no separate appeal). That refusal was issued for additional reasons, including that the second floor flat would not benefit from sufficient ceiling height at 2.3m or greater over 75% of

the flat's floor area. This appears to be the Council's argument irrespective of whether the dormer (which enables a substantial amount of the head height in the second floor flat) is retained. Although the living conditions of the occupiers are not an issue specifically raised by the notice if the dormer is retained, I therefore consider whether the living conditions of the occupiers of the second floor flat are acceptable with or without the dormer.

4. That application was a resubmission following a previous refusal for reasons including the effects on the living conditions of the occupiers of the first floor flats. I understand that, although the rear first floor flat is slightly smaller than national space standards would usually require, no objection is now pursued by the Council on this basis. The front first floor flat is smaller still, consistent with the permission that was granted.
5. The property has undergone significant changes in appearance during the recent past (as evidenced by photographs supplied by the appellant) including a re-profiling of the roof to the front. Permission was granted in 2018 for some works including the conversion to two flats (rather than the three that presently exist). Any other changes are not the subject of the present notice, which is directed towards the rear dormer extension and, internally, the use and layout of the additional second floor flat.

Effect on living conditions

6. Neither party contends that the living conditions of the occupiers of the second floor flat could be acceptable without the dormer extension: it is integral to the material change of use. Without it, the space would be extremely cramped with minimal acceptable head height.
7. With it, the dormer provides most of the 2.3m floor to ceiling height area within the flat. The Council's case is that because less than 75% of the floor area within the flat benefits from a head height of 2.3m or greater, the proposal will result in cramped and unsatisfactory living conditions for future occupants.
8. National technical housing standards (DCLG, March 2015) require a minimum floor to ceiling height of 2.3m of 75% of the Gross Internal Area (GIA) which itself excludes any area with a headroom of less than 1.5m if not used solely for storage. The GIA is thus 52.9sqm, rather than the 84.6sqm of the entire flat. Of this, some 40sqm (the appellant says 39.7; the Council 45.1) will be at a height of 2.3m or more. Thus the 75% requirement is satisfied.
9. On either party's case, the minimum floor area required by the national standards for a single-bedroomed flat is met. The Council's report makes reference to local housing standards in the South Yorkshire Residential Design Guide, although this has not been supplied. The relevant local policy context is found in UDP Policy H5, which is permissive of flats where living conditions would be satisfactory for occupants of the accommodation and their immediate neighbours.
10. Therefore the Council's objection on this ground (inasmuch as it is pursued) is not made out and I discern no conflict with the development plan for the area on this issue, although subject to the question, to which I now turn, whether the dormer is retained.

Effect on the character and appearance of the area

11. The relevant policy context is found in the UDP and the Sheffield Core Strategy, each of which are consistent with national policy ('the Framework') requirements of development to contribute to visually attractive places and to be sympathetic to local character. Policies H14 and BE5 of the UDP and policy CS74 of the Sheffield Core Strategy all require high quality design and materials to be in keeping with the area.
12. The Council acknowledge that the case is finely balanced, noting the small contribution to housing supply within the city and support for the effective use of land as promoted by the Framework. Nonetheless the Council consider that the design and materials of the dormer are significantly out of character in its location. To the rear of the appeal site a gap appears in the properties at Lancing Road, through which the upper rear of the nearby properties on Shoreham Street are readily visible, including this dormer. It is not the only property to host a rear dormer, but I accept that the one here is significantly larger than others in the immediate vicinity. It is constructed to the full height of the roof, with the roof light above being just about visible from the front at Shoreham Street. To the rear, it is clad in what is described on plans as dark grey PVC-U shiplap cladding. Whilst this is obviously a more modern material than the brick-and-tile construction found elsewhere in the area, its colouring is an effective match and it is not too obtrusive.
13. The appellant draws to my attention two matters in particular in support of his case. The first is the availability of permitted development rights to construct dormers of a size approaching the one here. The second is the preponderance of other large rear dormers found in the local (if not immediate) area.
14. The appeal property stands in a mixed commercial and residential neighbourhood, with terraced residential dwellings running from either side of the street corner on which the appeal site is located. The property itself could not benefit from the cited permitted development rights because it is not a single dwellinghouse, and thus it is not a fallback here, but I accept that such rights are available to most other properties in the area. Nonetheless in the immediate vicinity of the appeal site, any rear dormers are not comparable in terms of size to the one here.
15. In the wider vicinity such permitted development rights appear to have been taken advantage of with somewhat liberal application. The appellant draws to my attention many examples of large rear dormer extensions to properties including some particularly conspicuous examples including one at the corner of Edmund Road and Charlotte Road and another to the rear of Shoreham Street. Various other examples abound, principally to the rear of properties but not exclusively, such as in the examples of front dormers at Lancing Road near Cherry Street and on Edmund Road.
16. The Council urges me not to give significant weight to the existence of other such dormers because they are now immune from any enforcement action that might have been possible. It is somewhat difficult to understand how the Council have appraised the context of the dormer currently under appeal whilst being 'unaware' of these other dormers in close proximity. Nonetheless those other dormers, whilst apparently not expressly permitted, now form part of the local street scene and there is no expressed intention by the Council to seek the removal of any other dormers.

17. In the round and having regard to the built form in the surrounding streets which includes not only rear (and front) dormers to domestic properties, some to full ridge height, but also flat-roofed residential buildings of substantial construction, I do not find the construction of this dormer to detract unduly from the prevailing character of the area. Rear dormers are a highly prevalent feature of the area and the absence of planning permission for some of them (in the absence of any ability or expressed intent to take enforcement action) does not alter that fact.
18. The dormer extension is reasonably well-designed and it is in scale and character with the neighbourhood, consistent with policies H14, BE5 and CS74. Therefore I discern no conflict with the development plan for the area on this issue.

Conditions

19. It follows from my findings above that the notice will be quashed and planning permission granted. No conditions have been suggested by the Council in the event of such an outcome. The development was mostly completed at the time of my visit, with the upper flat largely kitted out and one of the flats below it presently occupied. The external building works are complete. Although I have not had sight of the 2018 permission, I note that the Council's report authorising enforcement action sought only to return the building's form and layout to that indicated on the plans approved under that permission, with no reference to any other applicable conditions. Therefore it appears to me unnecessary to impose any planning conditions to regulate the development.

Conclusion

20. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted.

Formal Decision

21. 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 construction of a rear dormer extension to the property and the change of use of the property comprising the use of the second floor as a separate residential flat at 283-285 Shoreham Street, Sheffield S1 4SS.

Laura Renaudon

INSPECTOR