



Appeal Decision

Site visit made on 3 April 2024

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2024

Appeal Ref: APP/R5510/C/23/3320615

32 Cowley Road, Uxbridge UB8 2LU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by DS Residential Holdings Ltd against an enforcement notice issued by the Council of the London Borough of Hillingdon.
 - The notice was issued on 14 March 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the development of [a]dormer roof extension ('the breach').
 - The requirements of the notice are: (i) Demolish the dormer roof extension and reinstate the pre-existing roof to resemble as closely as practicable the details of drawing labelled existing elevations PL-5822_03A - received 31 May 2019 as submitted with application reference 18881/APP/2019/1753, or (ii) Carry out remedial works to ensure full compliance with Class B schedule 2 Part 1 of Town and Country Planning (General Permitted Development) (England) order 2015 (as amended). You must but not limited to: • Remove all clear glazed windows on the flank elevation of the dormer roof extension and once removed carry out one of the following options: (A) Block up all resultant openings with materials to match the existing roof of the dwelling house. Or
 - (B) Install non-opening, fixed shut obscure glazed windows in all resultant openings. Or
 - (C) Install obscure glazed window[s] with an opening no less than 1.7 metres, measurement taken from the finished floor level.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) and (c) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeal is allowed and the enforcement notice is quashed.

Ground (b) and (c) appeals

2. The ground (b) appeal is that the matters alleged in the enforcement notice have not occurred, as a matter of fact. The ground (c) appeal is that the matters alleged in the notice do not constitute a breach of planning control. On both grounds it is for the appellant to show why their appeal should succeed, the relevant test of the evidence being on the balance of probability.
3. The appeal property contains a two-storey semi-detached dwelling. In relation to ground (b), the appeal must fail. A dormer extension has been erected on the side and rear roof slopes of the dwelling. The matter alleged in the notice has therefore occurred.
4. Turning to ground (c). Erecting the dormer is a building operation and amounts to 'development' as defined in s55(1) of the Act. Planning permission is required for the carrying out of any development of land, having regard to

- s57(1) of the Act. At s171A(1)(a), the Act defines a breach of planning control as carrying out development without the required planning permission.
5. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) at Article 3, Schedule 2, Part 1, Class B, grants planning permission for the enlargement of a dwelling consisting of an addition or alteration to its roof. This is subject to the limitations in paragraph B.1, as well as the conditions in paragraph B.2, being satisfied where relevant.
 6. It is not in dispute that the dormer satisfies the relevant limitations in paragraph B.1 (b)-(e). The dormer is no higher than the tallest part of the existing roof of the dwelling. It is not situated on a roof slope which forms the principal elevation of the dwelling fronting a highway. The dormer does not include a veranda, balcony or raised platform. The cubic content of the dormer does not result in the cubic content of the original roof space of the dwelling being exceeded by more than 50m³. Also, it is not disputed that the conditions in paragraph B.2 (a) are satisfied by using external materials similar in appearance to those of the existing dwelling and in paragraph B.2(b), by setting back the dormer at least 0.2m from the eaves. There is no sound reason why I should conclude otherwise in relation to any of the above matters.
 7. To satisfy the condition in paragraph B.2(c), the windows in the dormer side elevation must be obscure glazed and non-opening unless the parts of the window which can be opened are more than 1.7m above the floor of the rooms in which those windows are installed. During my visit, I saw that all of the dormer side-facing windows are fitted with obscure glazing. Furthermore, in my estimation the opening parts of these windows are well in excess of 1.7m above the floor level in each room. Therefore, in my view the dormer also complies with condition B.2(c).
 8. The available evidence shows that the dormer was originally erected with clear glazed windows in the side elevation and that these windows were openable at less than 1.7m above the floor level of the rooms in which they were installed. It also shows that similar windows were present in the side-facing elevation of the dormer, subsequent to the issuing of the notice. Nevertheless, as the wording of ground (c) is in the present tense-the '*matters do not constitute a breach...*'- the appellant is entitled to rely in support of their case at appeal on matters occurring between the date of issue of the notice and my visit.
 9. Consequently, the appellant has been able to show that, on the balance of probability, the dormer is not in breach of planning control as it benefits from the planning permission granted by the GPDO at Article 3, Schedule 2, Part 1, Class B. The ground (c) appeal succeeds.

Conclusion

10. For the reasons given above, I conclude that the appeal should succeed on ground (c) and the enforcement notice will be quashed.

Stephen Hawkins

INSPECTOR