

Appeal Decisions

Site visit made on 23 April 2024

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15.05.2024

Appeal A Ref: APP/M5450/D/24/3339607

Sunshine, 2 Temple Mead Close, Stanmore, Harrow HA7 3RG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by B Shah against the decision of the Council of the London Borough of Harrow.
 - The application Ref PL/0060/23, dated 29 September 2023, was refused by notice dated 23 January 2024.
 - The development proposed is alterations to the approved rear dormer.
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Appeal B Ref: APP/M5450/W/23/3330363

2 Temple Mead Close, Stanmore HA7 3RG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Bhavin Shah against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/3445/21, dated 16 August 2021, was refused by notice dated 8 August 2023.
 - The application sought planning permission for a detached house and parking with access to Temple Mead Close without complying with conditions attached to planning permission Ref EAST/1332/01/CON, dated 16 April 2002.
 - The conditions in dispute are Nos 1, 4, 5 and 6 which state that:
 1. The building shall not be occupied until the area for open parking has been completed and surfaced in accordance with details to be submitted and approved by the Local Planning Authority, and that area shall not thereafter have gates erected in front of it, and shall be retained solely for the parking of vehicles.
 4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification), no development which would otherwise fall within Classes A to F in Part 1 of Schedule 2 to that Order shall be carried out without the prior written permission of the local planning authority.
 5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification), no development which would otherwise fall within Classes A and B in Part 2 of Schedule 2 to that Order shall be carried out without the prior written consent of the local planning authority.
 6. Notwithstanding the provisions of the Town & Country Planning (General Permitted
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Development) Order 1995 (or any order revoking and re-enacting that Order) (with or without modification), no roof windows/dormers shall be inserted into the east roof slope, and no windows or doors shall be inserted into the east elevation, other than those expressly authorised by this permission.

- The reasons given for the conditions are:
 1. To ensure the satisfactory provision of parking facilities and access thereto.
 4. To safeguard the character of the area by restricting the amount of site coverage and size of dwelling in relation to the size of the plot and availability of: -
 - (a) amenity space
 - (b) parking spaceand to safeguard the amenity of neighbouring residents.
 5. To safeguard the character of the locality.
 6. To preserve neighbouring amenity.
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Decisions

Appeal A Ref: APP/M5450/D/24/3339607

1. The appeal is allowed and planning permission is granted for alterations to the approved rear dormer at Sunshine, 2 Temple Mead Close, Stanmore, Harrow HA7 3RG in accordance with the terms of the application Ref PL/0060/23, dated 29 September 2023, subject to the conditions set out in the attached Schedule A.

Appeal B Ref: APP/M5450/W/23/3330363

2. The appeal is allowed and planning permission is granted for a detached house and parking with access to Temple Mead Close at 2 Temple Mead Close, Stanmore HA7 3RG without compliance with conditions 1, 4, 5 and 6 previously imposed on the planning permission Ref EAST/1332/01/CON, dated 16 April 2002 and subject to the conditions set out in the attached Schedule B.

Preliminary matters

3. The description of proposed development for Appeal A, as set out on the application form and quoted above, requires some clarification. As I saw at my site visit, a large box dormer has been built on the rear roof of the house – evidently without the required planning permission. A smaller box dormer has been approved but has not been installed. This appeal proposal is to replace the existing unauthorised structure with 2 smaller, flat roofed dormer windows. The description of the proposal set out on the Council's decision notice captures this more accurately and succinctly as; "*Alterations to roof to form 2 rear dormers*". I have considered Appeal A on this basis.
4. A revised version of the National Planning Policy Framework (the Framework) was published on 19 December 2023, during consideration of Appeal B. Having regard to the changes in the Framework and to the comparatively minor scale and nature of this appeal proposal, I consider that further consultation on this matter is not necessary.

Main Issue – Appeal A

5. The main issue is the effect of the proposal on the character and appearance of the house and the local area.

Main Issues – Appeal B

6. The main issues are the effects of the proposal on: (i) the character and appearance of the house and the local area; and (ii) living conditions at neighbouring properties.

Reasons

Appeal A – Character and appearance

7. 2 Temple Close sits within a suburban residential area. It is an early 21st Century detached house with hipped roofs and a long, narrow form that reflects the shape of its plot. It faces Temple Close, with gardens to both sides and no significant front or rear gardens. The proposed dormer windows would sit within the rear roof slope, facing towards 36 Gordon Avenue next door.
8. The Council's Supplementary Planning Document *Residential Design Guide* (RDG) says that dormer windows should complement the original street character. It advises that they generally should be subordinate features in the roof, should not overlap or wrap around the roof hips and should retain a section of roof around the sides of a dormer window, including the upper corners, so that they will be visually contained within the roof profile.
9. A proposal for a box dormer similar to the existing structure was dismissed on appeal in 2022¹. That Inspector found that its siting, scale and appearance would give the resultant dwelling an awkward, top heavy appearance that would be exacerbated by the disproportionate size of the windows. The Council subsequently approved an application for a smaller dormer that would fit more comfortably into the roof slope. That permission has not been implemented.
10. The current proposal for 2 dormers would also fit reasonably well within the roof. Although not strictly in accordance with the dimensions set out at paragraph 6.70 of the SPD, the structures as shown on the submitted plans would be set down from the ridge, back from the eaves and well away from the side walls. Importantly their upper corners would not overlap the hips to either side, in contrast to the existing dormer which somewhat crudely extends beyond the hips. The split into 2 separate dormers would further help to keep the dormers from dominating the rear roof and the proposed windows would be reasonably proportionate to the existing rear windows. Although the dormers would clearly be visible from the streets and neighbouring properties, they would sit comfortably within the street scene.
11. I conclude that the proposal in Appeal A would not harm the character and appearance of the house and the local area. It accords with policy D3(D1 and D11) of the London Plan (LP), policy CS1(B) of the Harrow Core Strategy (CS), policy DM1 of the Harrow Development Management Policies (DMP), the RDG and the Framework, which aim to secure a high standard of design that

¹ APP/M5450/D/22/3297509

responds to the existing character of a place and protects the character of Harrow's suburbs.

Appeal B – Character and appearance

12. Conditions 4 and 5 of the existing planning permission for the house take away normal permitted development rights under the 2005 Town and Country Planning (General Permitted Development) (England) Order, as amended (the GPDO). The following rights are removed, in summary:

Condition 4 - extensions including roof extensions and porches, other alterations such as new windows, outbuildings and hardstandings; and

Condition 5 – enclosures (walls, fences and gates) and access to the highway.

This means that a planning application is required for any of these potential developments. The stated reasons for conditions 4 and 5 include safeguarding the character of the area.

13. As set out in the Framework, planning conditions should be kept to a minimum and only used where they meet a set of 6 tests, including that they must be reasonable and necessary. The Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Government's Planning Policy Guidance further advises that conditions restricting the future use of permitted development rights may not pass the tests of reasonableness or necessity. The appellant also refers to old guidance contained in Government Circular 11/95, but this has been cancelled.
14. The Council draws my attention to another previous appeal decision², which originally gave permission for this house before an amended scheme was built under permission Ref EAST/1332/01/CON. That Inspector also removed some permitted development rights, in part to control the accretion of minor extensions and changes of form which would detract from the appearance and character of the building and its setting.
15. The house, as envisaged by previous decision-makers, is tightly constrained front and back. Much of the garden on the northern side is taken up with a parking area and an outbuilding. Another outbuilding sits on the southern side, next to Gordon Avenue and there is also a mature tree on that side which is protected by a Tree Preservation Order (TPO). The house, especially its roof, and its plot are prominent in views from both streets and from neighbours' properties. The scope for further extensions and outbuildings is therefore somewhat limited without giving the impression of cramped development, overcrowding the site and potentially harming the remaining TPO tree. Further additions or alterations to the roofs, such as hip to gable or side dormer extensions could significantly change their carefully planned character. Additional hardstanding could also harm the retained tree.
16. I therefore find that the main elements of condition 4 are reasonable and necessary, meeting the Framework tests. The restriction on porches in that condition does not serve any clear planning purpose, however, so should be excluded from the condition, allowing scope for these minor structures.

² Cited by the Council as APP/M5450/A/00/1044243

17. Turning to condition 5, the garden areas are already surrounded by high fences and walls so that there appears to be little reason to continue the special limitation of site enclosures. Likewise, the restriction on new accesses is not necessary to protect local character.
18. I conclude that most elements of condition 4 meet the tests set out in the Framework, including in regard to reasonableness and necessity, but that condition 5 does not meet these tests. Varying condition 4 and removing condition 5 therefore accords with the aspects of LP policies D3(D1 and D11) and G7(C), CS policy CS1(B), DMP policies DM1 and DM22 and the Framework that protect local character, including important trees.

Appeal B - Living conditions

19. Condition 6 removes permitted development rights for dormers, rooflights, windows and doors in the rear (eastern) elevation of the house, facing 36 Gordon Avenue. Such protection is necessary due to the close relationship between the 2 dwellings, but the controls in condition 6 effectively duplicate restrictions set out in conditions 4 and 7 (obscure glazing) so are not necessary. I conclude that condition 6 should not be restated in any new permission. The proposal accords in this way with LP policy D3(D7), DMP policy DM1 and the Framework, which taken together aim to ensure a high standard of amenity, including in relation to privacy, light and visual impact.

Other matters

20. Neighbours have also raised concerns about the impact of the proposed dormer windows on privacy at 36 Gordon Avenue. These windows would mainly look out onto the side walls and roofs of No 36 so would not give rise to any undue overlooking. I find myself in agreement with the previous Inspector on this count and note that the Council raises no such objection.
21. Despite concerns by the Highway Authority, the Council raises no objection in regard to condition 1, which requires the site access and parking to be as originally approved. The original access and parking provision has apparently been altered as a result of another planning permission³. The current, revised access and parking layout (with a gate) make suitable provision for access to this lightly travelled cul-de-sac. Condition 1 can therefore be varied to reflect the existing situation, so that an access and some on-site parking continues to be provided. I note the concerns of local objectors about increased on-street parking, but have no evidence to show that this is a particular problem here. Ample on-street parking was available on Temple Close at the time of my site visit.

Conditions

22. Appeal A - I impose a condition specifying the relevant plans to provide certainty. A condition requiring the use of matching materials is needed in order to protect local character and appearance.
23. Appeal B – Conditions 1 and 4 of the existing planning permission are retained and renumbered, with variations as set out above. This decision establishes a

³ P/1369/21

new, freestanding planning permission so it is necessary to re-impose all conditions which remain relevant. On one hand, the 2 conditions relating to the landscaping of the site no longer appear to be relevant or necessary 20 years on, so are not included in this decision. On the other hand, condition 7's requirements about obscure glazing do remain necessary so that condition is re-imposed with appropriate wording for the new situation. The Council draws attention to the misalignment of the dropped kerb with the revised site access, but does not ask for any condition to deal with this matter. Finally, the Council indicates that it would have required a fire safety statement if it had granted this application, but has not suggested any condition for this purpose. Both main parties have been given an opportunity to comment on the new set of conditions.

Conclusions

24. Appeal A – I find that the proposal accords with the development plan. For the reasons set out above, and having regard to all other matters raised, I conclude that this appeal should succeed.
25. Appeal B – I find that certain aspects of the proposal accord with the development plan and that the conditions should be varied and removed accordingly. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should succeed to this partial extent.

Les Greenwood

INSPECTOR

SCHEDULE A - APP/M5450/D/24/3339607

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 2TMC-H/04092023/PD-2/2.
- 3) The materials to be used in the construction of the vertical external surfaces of the dormer windows hereby permitted shall match those used on the roofs of the existing building.

SCHEDULE B - APP/M5450/W/23/3330363

- 1) The existing access and parking area shall be retained solely for those uses.
- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order with or without modification), no development which would otherwise fall within Classes A to C and E to F in Part 1 of Schedule 2 to that Order shall be carried out without the prior written permission of the local planning authority.
- 3) All first floor windows in the east elevation and the first floor bathroom window in the north elevation shall: (a) be of purpose-made obscure glass and (b) be permanently fixed closed. The windows shall be retained in that form.