



Appeal Decision

Site visit made on 19 July 2024

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 08 August 2024

Appeal Ref: APP/N1920/D/24/3342053

12 Rose Lawn, Bushey Heath WD23 1HW

- 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 Mr and Mrs Rothband against the decision of Hertsmere Borough Council.
 - The application reference is 23/1532/HSE.
 - The development proposed is described as 'Roof side extension and conversion including conservation roof windows to front and sides and rear dormer; Single storey rear extension; Reconstructed front porch with new front door; and Changes to fenestration and rear wall details.'
-

Decision

1. The appeal is dismissed insofar as it relates to the dormer window to the rear roof pitch of the appeal dwelling.
2. The appeal is allowed insofar as the roof side extension, roof windows to the side, single storey rear extension, front porch and new door, and changes to fenestration; and planning permission is granted for a Roof side extension and conversion including side conservation roof windows; Single storey rear extension; Reconstructed front porch with new front door; and Changes to fenestration and rear wall details in accordance with the terms of the application Ref 23/1532/HSE, subject to the conditions attached as an annex to this letter.

Preliminary Matters

3. It is noted that the application scheme has been amended through the application process. Elements originally applied for such as the demolition of the chimney stack, and front roof lights are no longer proposed within the latest plans which were refused by the Council. As such, I have amended the description as found on the Application Form to remove these elements from the approval scheme as detailed in Paragraph 2 above.
4. The refused scheme contains a number of elements, such as the side and rear extensions, roof side extension and changes to fenestration and front porch alterations. It is noted in the refusal reason and Officer Report that these elements are considered appropriate and in accordance with the development plan. The main concern from the Council and as noted in the refusal reason is the construction of the dormer window in the rear roof plane. I have no reason to revisit all of these elements of the application as to their appropriateness against the Development Plan. As the rear roof dormer is the only element in dispute, this letter will focus on this element only.

Main Issue

5. The main issue is the effect of the proposed dormer window upon the character and appearance of the host building and the surrounding locality, with special attention to the The Lake, Bushey Heath Conservation Area (CA).

Reasons

6. The significance of the CA is noted in the Warren Estate Bushey Heath Design Guide (DG) where the Warren Estate was planned and erected as a homogenous development of 77 dwellings by developers Comben and Wakeling. The dwellings were erected in a traditional English house style which is significant for its urban layout (planned urban pattern, low plot ratios, detached buildings with wide spaces), built form and architecture (hipped roof forms, tall chimney stacks, distinctive flat topped open porches) and Materials (handmade red stock bricks, clay hanging tiles, crittal windows). Additionally, there is an emphasis on vegetation, with well vegetated gardens, the tops of trees to the rear which can be experienced from the gaps in between dwellings. These are some of the positive qualities within the estate that reinforce local character and distinctiveness.
7. The appeal site displays a number of positive qualities which are experienced within the locality and is one of the original properties of the estate, where Rose Lawn contains a cul-de-sac with 12 bungalows which contain a main hipped roof with large chimney stack and smaller forward projection with front facing gabled roof. The appeal dwelling like others in the cul-de-sac has experienced extensions such as a rear and side extension, but in this area, extensions are generally subservient and retain the positive qualities of local distinctiveness within the area. As such, the appeal dwelling is read as one of the original properties and with the front garden and similar design elements to the estate contributes positively alongside the other dwellings which make up the street scene.
8. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA), in respect of development affecting conservation areas, states that special attention shall be paid to the desirability of preserving or enhancing the character and/or appearance of the area. In undertaking extensions and alterations to existing dwellings, the Hertsmere Core Strategy (CS) Policy CS14 and The Site Allocations and Development Management Policies Plan (SAP) Policy SADM29 seeks to ensure development conserves or enhances heritage assets such as Conservation Areas, and seeks amongst a number of considerations to retain buildings, structures and historic features, and avoid the cumulative effect of smaller scale proposals harming the area. Additionally, CS Policy CS22 and SAP Policy SADM30 are design led policies which seeks to establish a strong sense of place and raise the quality of design with considerations around massing, scale, bulk, height and urban form. These policies are supported by the Hertsmere Planning and Design Guide Part E Supplementary Planning Document (SPD) which gives further advice with regards to extensions to existing dwellings.
9. The proposed dormer window is of modern appearance and stretches from the existing roof to the newly constructed side roof extension. Whilst confined to the roof plane, the dormer window is very long and has an appearance of a roof extension rather than what could be described as small dormer windows which in a traditional sense were designed to be small, proportionate to the

roof and elevate the status of a building. These characteristics are also repeated in the DG and SPD where decisions are needed to be influenced by the context of the existing site, its surroundings and the existing building. Whilst I appreciate that there is a recommendation in the SPD that dormer windows should not exceed 66% of the roof plane, this is not a black and white determinant to acceptability, with one having to take account of the existing design, context and proportions. In this particular case, a 66% increase in space would certainly appear incongruous as does the current proposal which is much less than this. I appreciate the explanation as to the design rationale behind the design which seeks to be honest in its approach in terms of replicating the newer and somewhat more lightweight rear extension to the ground floor, however the result is unsuccessful. The proposal would be disproportionately bulky and long and would dominate the form and appearance of the roof form of the dwelling.

10. I also appreciate comments that the roof extension would be to the rear of the property and not visible within the public realm; however the duty under Section 72, (or considerations under SAP Policy SADM29 or CS Policy CS14) is not limited to what can be seen from a public vantage point, and that just because the dormer might not be visible to the public realm, does not mean that harm cannot occur. In this particular case there is harm caused to the positive features identified such as the existing roof form, which is free from roof clutter caused by overly large alterations.
11. In conclusion of this matter it is clear to me that the proposed dormer to the rear of the dwelling would unacceptably harm the character and appearance of the existing building and the greater locality that is important to the significance of the CA thus failing to preserve the character and appearance of the wider CA and the duty under s72 of the PLBCA. The proposed scheme would therefore conflict with CA Policies CS14 and CS 22; SAP Policies SADM29 and SADM30, which are supported by the DG and SPD.
12. Although serious, the harm to the heritage asset in this case would be 'less than substantial,' within the meaning of the term in paragraph 208 of the Framework. Paragraph 206 of the Framework states that any harm to, or loss of, the significance of a designated heritage asset requires clear and convincing justification. Paragraph 208 of the Framework requires that, where a proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal.
13. The Appellant has suggested that the public benefits of the scheme would be that the proposal is high quality design, allows the residents to remain in the area; allowing additional accommodation for the occupants; allowing increased mobility measures; providing more compatible standards to modern living; upgrades to insulation and utilities; and improving energy efficiency. These benefits may also be present in a scheme that is more compatible with the policies of the Development Plan and therefore attracts limited weight. There are some public benefits, such as the economic benefits from short term employment opportunities from the construction of the proposed scheme which attracts low-medium weight. However, these benefits are not sufficient to outweigh the harm caused to the CA, in which I attach great weight.
14. I therefore find that the public benefits arising from the proposed development would not outweigh the harm I have identified. The scheme therefore conflicts

with the Framework, which directs, at paragraph 205, 'that great weight should be given to the asset's conservation ... irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance.'

Conclusion and Conditions

15. For these reasons and having considered all matters raised in evidence and from what I saw during my site visit, I conclude that the appeal should be allowed and planning permission granted insofar as it relates to elements described in Paragraph 2, subject to the conditions as detailed in the annex accompanying this decision. As the rear dormer window is both physically and functionally severable, I consider a split decision would be a logical outcome.
16. I refer to the suggested conditions specified by the Council in their Statement of Case, if the appeal was to be allowed and have considered them in accordance with the Planning Practice Guidance (PPG).
17. Suggested conditions 1 and 2 are standard conditions which set the standard time limit and approved plans which are necessary for the avoidance of doubt and in the interests of proper planning. Suggested condition 3 is a condition requiring the scheme utilise matching materials as described in the application documents and to the existing dwelling. This is considered necessary to ensure that the appearance of the extensions are compatible with the existing dwelling and the character and appearance of the CA.
18. Suggested Condition 4 seeks that the rooflights to the side roof planes be non-opening below 1.7 metres of finished floor level and obscurely glazed. This is considered appropriate to avoid any detriment to living conditions to surrounding occupiers. I have however altered the wording which seeks 'written consent' to 'planning permission' as it is unclear what written consent means as there is no mechanism for approving such change without planning permission which is a more accurate description. Suggested Condition 5 seeks that the single storey flat roof of the rear extension is not used as a balcony, roof garden or for sitting out. This condition is also necessary to prevent further detriment caused to living conditions of surrounding residents. I have also amended the wording 'specific permission' to 'planning permission.'

J Somers
INSPECTOR

Annex: Schedule of Conditions

- 1) The development hereby permitted shall be commenced before the expiration of three [3] years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the approved drawings listed below:
 - Roof Plan Proposed, Dwg No. 379:14 Rev B, Dated 11.01.24
 - Ground Floor Plan Proposed, Dwg No. 379:12 Dated September 23
 - Loft Level Plan Proposed, Dwg No. 379:13 Rev B, Dated 11.01.24
 - Elevations Proposed, Dwg No. 379:15 Rev B, Dated 11.01.24
- 3) The materials used in the construction of the development hereby permitted shall match the external materials of the existing dwelling in terms of size, shape, colour and texture.
- 4) The proposed rooflight to be inserted on each side roof slope serving en-suites indicated on Plan No. 379:14 Rev B: shall be in fully obscure glass (to Pilkington Level 3 or equivalent) and non-opening below a height of 1.7 metres measured from the internal finished floor level. The windows shall not thereafter be altered in any way without subsequent planning permission from the Local Planning Authority.
- 5) The roof area of the extension hereby permitted shall not be used as a balcony, roof garden or similar amenity area without the grant of subsequent planning permission from the Local Planning Authority.