



Appeal Decisions

Site visit made on 22 October 2024

by Roy Curnow MA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2024

Appeal A Ref: APP/Z3635/C/23/3333218

Appeal B Ref: APP/Z3635/C/23/3333220

9 Loudwater Road, Sunbury on Thames TW16 6DB

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - Appeal A is made by Mr Ian Barlow against an enforcement notice issued by Spelthorne Borough Council.
 - Appeal B is made by Mrs Louisa Julia Barlow against an enforcement notice issued by Spelthorne Borough Council.
 - The enforcement notice, numbered 22/00099/ENF, was issued on 18 October 2023.
 - The breach of planning control as alleged in the notice is the carrying out on the land of building, engineering, mining or other operations in particular the ridge height increase, hip to gable roof alteration and rear facing dormer without planning permission.
 - The requirements of the notice are: 1. Remove the over height roof, the over height dormer; 2. Remove the over height hip to gable alteration; and 3. Return the roof to its former condition before this unlawful development.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal C Ref: APP/Z3635/C/23/3333226

Appeal D Ref: APP/Z3635/C/23/3333227

11 Loudwater Road, Sunbury on Thames TW16 6DB

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - Appeal C is made by Mr Matthew Boursnell against an enforcement notice issued by Spelthorne Borough Council.
 - Appeal D is made by Mrs Lisa Marie Boursnell against an enforcement notice issued by Spelthorne Borough Council.
 - The enforcement notice, numbered 21/00393/ENF, was issued on 18 October 2023.
 - The breach of planning control as alleged in the notice is the carrying out on the land of building, engineering, mining or other operations in particular the ridge height increase, hip to gable roof alteration and rear facing dormer without planning permission.
 - The requirements of the notice are : 1. Remove the over height roof, the over height dormer; 2. Remove the over height hip to gable alteration; and 3. Return the roof to its former condition before this unlawful development.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal E Ref: APP/Z3635/W/23/3328074
9 & 11 Loudwater Road, Sunbury on Thames TW16 6DB

- 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 Matthew Boursnell against the decision of Spelthorne Borough Council.
 - The application Ref 23/00100/FUL, dated 26 January 2023, was refused by notice dated 16 March 2023.
 - The development proposed is Retention of existing roof alteration comprising ridge height increase, hip to gable roof alteration and rear facing dormer.
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Decisions

1. In respect of Appeals A and B, and C and D:

It is directed that the enforcement notice is corrected by: omitting "TW16 6BD" from the address of the 'Land or Premises to which this Notice relates' in Schedule 1 of the Notice and substituting "TW16 6DB".

Subject to the correction, the appeals are 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 carrying out on the land of building, engineering, mining or other operations in particular the ridge height increase, hip to gable roof alteration and rear facing dormer at 9 & 11 Loudwater Road, Sunbury on Thames TW16 6DB as shown on the plan attached to the notice.

2. In respect of Appeal E: The appeal is allowed and planning permission is granted for existing roof alteration comprising ridge height increase, hip to gable roof alteration and rear facing dormer at 9 & 11 Loudwater Road, Sunbury on Thames TW16 6DB in accordance with the terms of the application, 23/00100/FUL, dated 26 January 2023, and the plans submitted with it.

Application for Costs

3. An application for costs was made by the Appellants in appeals A, B, C, D and E against Spelthorne Borough Council. This application is the subject of a separate Decision.

Procedural Matter

4. The development for which planning permission is sought is the same for each of the appeals. Each seeks to retain the roof alterations that have been carried out to the two dwellings. Whilst appeals against the Council's decision to issue enforcement notices have been separately lodged in respect of 9 and 11 Loudwater Road ('Nos 9 and 11'), it is clear that those appeals support the retention of the development on both dwellings. As such, my findings are set out in one decision letter.

5. Appeals have also been lodged against the Council's decisions to issue enforcement notices¹ and refuse planning permission², in respect of similar roof

¹ PINS Refs: APP/Z3635/C/3333211 and 3333212, APP/Z3635/C/3333204 and 3333205

² APP/Z3635/W/3328070

alterations that have been undertaken at 2 and 4 Loudwater Road. I visited those properties at the same time that I undertook the site visit for Appeals A and B, though the decisions on those appeals are made on their individual merits.

6. The Notice gives the postcode as 'TW16 6BD', whilst the Appellants' submissions give it as 'TW16 6DB'. On the basis that it seems most likely that the Appellants would know their postcode, I have used this in my decision. As the slight mistake has not precluded the Appellants from making their case, I am able to correct the Notice without prejudice.

S174 Appeals Ground (a) and the S78 Appeal

Main Issue

7. The main issue in all of the appeals is the effect of the development on the character and appearance of the area.

Reasons

Appeal site and relevant planning history

8. Loudwater Road is a residential road that links Halliford Road and Fordingbridge Road. It is part of the residential development that lies at the edge of Sunbury on Thames. As one travels towards the next settlement to the west, Shepperton, there are significant breaks between areas of built development. The appeal sites back onto a large field that forms part of one of these breaks.
9. Nos 9 and 11 are a pair of semi-detached dwellings on the west side of the road, set between its junctions with Halliford Road and Loudwater Close.
10. By way of background, the Council issued certificates of lawful proposed development³ for Nos 9 and 11, under s192 of the Act, for loft alterations that would include a hip to gable alteration, the installation of a rear facing dormer with a Juliet Balcony, and 3 no. roof lights within the front roof slope. The development was held to be permitted development, as defined by Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended ('GPDO').
11. The development that has been undertaken to the properties does not accord with that shown in the certificate application. It consists of a hip to gable alteration to the properties' main roof that has involved an increase in the pitch of the roof and the raising of the ridge line; on their rear roof slopes, each property has been enlarged by way of a single, linked large dormer extension; and on the front roof slope each property has three rooflights. Internally, each dwelling benefits from a stairwell giving access to a bedroom and bathroom in its extended roof space. The evidence shows that it is not permitted development that would be allowed by the GPDO.
12. The owners of the properties made a pre-application enquiry to the Council⁴ regarding the retention of the works entitled 'Preliminary enquiry relating to roof extensions and associated alterations'. The Council gave its views on this

³ Council references: 9 Loudwater Road - 21/00605/CPD; and 11 Loudwater Road - 21/00592/CPD

⁴ Council reference: 9 and 11 Loudwater Road - 22/01263/PE

and, subsequently, a planning application⁵ was made for 'Retrospective application for the retention of existing roof alteration comprising ridge height increase, hip to gable roof'. This was refused by the Council on 16 March 2023, and this decision is the subject of Appeal E.

13. In the area bounded by Halliford and Fordingbridge Roads. Although some of the dwellings here share aspects of scale, form and design, there is, nonetheless, great variety in the area's built development. There are small single-storey properties, houses of varying sizes that are set out in detached, semi-detached and terraced form, as well as a purpose-built three-storey block of flats set under a flat roof. A good number of the properties have been subject to roof extensions and I saw properties nearby that had hip to gable alterations, rear dormer extensions or both.
14. There is considerable variety in the appeal sites' more immediate surroundings. Halliford Road, at its junction with Loudwater Road, is flanked to the east by a terrace of large properties. These are considerably higher than properties in Loudwater Road, with which they are seen, and a number of these have large dormer windows on their rear elevations that are seen from Loudwater Road.
15. On the west side of the junction between Halliford and Loudwater Roads is a pair of two-storey, semi-detached dwellings set under clay-tiled hipped roofs. These roofs run parallel to the road. Running from just below the eaves of their roofs, a further roof rakes down to form feature porches. Prior to the works to Nos 9 and 11, the two dwellings on the west side of the Halliford Road junction and the first five pairs of semi-detached dwellings in Loudwater Road, numbered with odd numbers from 1-19, were of essentially the same design. Although on closer inspection there are some minor variations amongst them, such as the difference between first floor window heads and eaves lines, prior to the works undertaken to Nos 9 and 11 they were essentially of the same form and design and formed a coherent group.
16. Beyond those properties, however, the built form is quite different with single-storey and two-storey detached dwellings, all of which have different designs. For example, of the 2 two-storey dwellings beyond No 19, one has a gable facing the road with a long ridge at 90 degrees to it and the other has a hip facing to road with a far shorter ridge at 90 degrees to it. The much smaller bungalows beyond these dwellings also have a variety of designs.
17. This variety is also seen in the form of development on the opposite side of Loudwater Road. 2 and 4 Loudwater Road is a pair of semi-detached dwellings. They had the same form and design as Nos 1-19 had before the works to Nos 9 and 11. However, they have also been altered in the manner of the works at Nos 9 and 11 without planning permission. Beyond Nos 2 and 4 are two detached dwellings that are of a markedly different form and design. Rather than presenting a ridge line running parallel with the road, they had ridges running at 90 degrees to the road. The roof to 6 Loudwater Road had a more complicated form with a lower hip with gable above leading to a further small hip. It was noticeably higher than the extended roof at Nos 2 and 4. 8 Loudwater Road has a hip facing the road. Beyond the road's junction with Loudwater Close, there is further variety in built form with a large detached

⁵ Council reference: 9 and 11 Loudwater Road - 23/00100/FUL

dwelling followed by a line of small bungalows of different designs. One of these was having its roof altered, including a rear dormer at the time of my visit.

18. Overall, this is an area of varied built form, with no overriding design theme. It is within this context that the appeal proposals have to be assessed.
19. As the height of the roof exceeds that of the original roof, the works cannot be considered to be permitted development under the terms of Schedule 2, Part 1, Class B of the GPDO. However, the Appellants claim that the schemes, for which certificates of lawful proposed development were issued, represent a fallback position. Were the Notice to be upheld, the roof and dormer would have to be removed and the roof returned to its former condition. If that extensive work were to be undertaken, given the benefits of the additional space to the Appellants, I find there is sufficient likelihood of the claimed scenario happening to accept this fallback position. Despite the costs, I find that there is a more than theoretical chance of this occurring. However, this is not determinative in my decision.
20. The Council has produced a Supplementary Planning Document entitled 'Design of Residential Extensions and New Residential Development', April 2011 ('SPD'). It sets out a number of criteria that it says leads to a well-designed roof extensions and dormers. Some of these, such as its required degree of 'set-in' from a property's roof edge, ridge and eaves, exceed what might be permitted development, as set out in the GPDO. Notwithstanding this, it is a document to which I attach substantial weight. It reflects the thrust of Policy ENV1 (a) and (b) of the Core Strategy and Policies development Plan Document, adopted 26 February 2009, ('CS').
21. Loudwater Road presents the main public vantage point from which the development is seen. From there, the main roof is readily apparent. It has added greatly to the scale and bulk of the roof. Much of this increase would have occurred, in any event, had the development been undertaken in accordance with the certificate schemes. The additional bulk and scale compared to those schemes arises from the increase in both roof pitch and height that has occurred.
22. The Council state that the increase in ridge height is 0.4m. The Appellants have submitted a scaled drawing⁶ produced by CSL Surveys that shows this to be 0.34m. Given that it follows from a measured survey of the properties, I take the CSL measurement to be accurate. The CSL drawing shows that previously there was a 50mm difference between the ridge heights of Nos 7 and 13 Loudwater Road, with the ridge to Nos 9 and 11 lying between the two. Now, the ridge to Nos 9 and 11 is some 50mm higher than that to No 13 and 12mm higher than that of No 7. Although the difference with No 13 is perceptible, it is not harmful. The minimal difference between the appeal site and the ridge to No 7 is imperceptible from street level.
23. Given the above and its contextual setting, I find that the increase in the pitch and height of the roof, together with the change from hip to gable end, is not harmful to the street scene. Inevitably, these works have led to an increase in

⁶ Drawing number - 10423LH-ELEV1, dated November 2023

- the scale and bulk of the roof, but the development sits comfortably here, given the variation in the vicinity of the site.
24. Views of the upper parts of the ends of the dormer can be gained from Loudwater Road. Views of the whole of it, save for from within the gardens of Nos 9 and 11, can only readily be gained from the rear gardens of the host dwellings and those abutting them. It is only really from those rear gardens that the scale and bulk of the dormer can be appreciated. It does appear large from these vantage points. However, I do not find it to be harmful. Furthermore, it is not significantly different from what might have been erected under the scheme for which certificates were issued. I saw that the development was visible from a field gate on Halliford Road, opposite Vicarage Farm. This is some way from the site and, from there, it has very little effect on the area's character and appearance.
25. The Council has produced a Supplementary Planning Document entitled 'Design of Residential Extensions and New Residential Development', April 2011 ('SPD'). It sets out a number of criteria that it says leads to a well-designed dormer. Some of these, such as its required degree of 'set-in' from a property's roof edge, ridge and eaves, exceed what might be permitted development, as set out in the GPDO. Notwithstanding this, it is a document to which I attach substantial weight.
26. The effect of the dormer should not be taken in isolation, but must be assessed in contextual terms. Overall, whilst it is closer to the roof's edge, ridge and eaves than the terms of the SPD, it is centrally located on the roof, its roof is compatible with the main roof and, although undoubtedly large, I find it not to be over-dominant or out of proportion.
27. Although the two properties share one joined dormer, in the circumstances this is not harmful. Were they separated, unless this was to an unlikely degree, the effect on the character and appearance of the area would not be noticed from the public vantage points. I say "unlikely degree", given the aims of the properties' owners to create as much space as possible for their families. Any separation to form two dormers would only be noticeable from a short distance away in neighbouring gardens, given the angle of view.
28. Paragraph 3.57 of the SPD states that particular attention should be paid to a list of criteria where it is proposed to add an additional floor to an existing property, raise the height of the roof or change its shape.
29. Applying them here, I find that: the scale and proportions of the development are in keeping with the character of the area; the position of windows does not lead to unacceptable overlooking; the position and design of windows reflects the alignment, symmetry and design of existing window openings; the roof design of the dormer, although having a very low pitch, given its context is appropriate to the character of the property; and the materials used match and complement those used in the host dwellings.
30. I note the considerable support from members of the local community. Although not determinative in my decision, I give this weight. In particular, that given by the owners of Nos 7 and 13. As they live next door, they would be most affected by the development.

31. My finding on the main issue is that the alterations that have been undertaken to Nos 9 and 11 do not harm the character and appearance of the area. There is some limited harm to the appearance of the host dwellings, but this is not so significant as to justify refusing planning permission. I find, therefore, that it displays a standard of design that accords with the terms of Policy EN1 of the Council's 'Core Strategy and Policies Development Plan Document', adopted 26 February 2009 and the aims of the SPD.

Conditions

32. No conditions were proposed by either party. Given this, that the development has been completed, and that I have found it to be acceptable, I find that there is no need to attach conditions.

Conclusion - Appeals A, B, C and D

33. For the reasons given above, I conclude that Appeals A, B, C and D succeed on ground (a). I shall grant planning permission for the ridge height increase, hip to gable roof alteration and rear facing dormer as described in the notice. The appeals on ground (g) do not therefore fall to be considered.

Conclusion – Appeal E

34. In respect of Appeal E, I allow the appeal and grant planning permission for the existing roof alteration comprising ridge height increase, hip to gable roof alteration and rear facing dormer.

Roy Curnow

Inspector