



Appeal Decisions

Site visit made on 25 March 2025

by **Robin Buchanan BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date 22 April 2025

Appeal A Ref: APP/Z3635/C/23/3326417

Appeal B Ref: APP/Z3635/C/23/3326418

23 Alexandra Road, Ashford, Surrey TW15 1TW

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- Appeal A is made by Mrs Parameswary Thevarajah and Appeal B is made by Mr Thurajapph Thevarajah against an enforcement notice issued by Spelthorne Borough Council.
- The notice was issued on 21 June 2023.
- The breach of planning control as alleged in the notice is 'The unlawful operational development of the Land; Without planning permission the roof ridge has been raised by 0.12m, at variance with approved plans (TSL/THel/23/01 Rev A) of granted planning permission under 20/00545/HOU'.
- The requirements of the notice are:
 1. Removal of the unauthorised roof structure.
 2. Restore the roof structure in accordance with the approved plans: TSL/THel/23/01 rev A attached to the approved permission 20/00545/HOU.
- The period for compliance with the requirements is: three months.
- The appeals are proceeding on the grounds set out in section 174(2)(f) and (g) of the Act.

Summary Decisions: The appeals are dismissed and the enforcement notice is upheld with variations and corrections in the terms set out below in the Formal Decision.

Appeal C Ref: APP/Z3635/W/23/3325937

23 Alexandra Road, Ashford, Surrey TW15 1TW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mrs Parameswary Thevarajah against the decision of Spelthorne Borough Council.
- The application Ref is 23/00243/HOU.
- The development proposed was described as 'Retrospective application for changes from application ref: 20/00545/HOU. Alterations to loft dormer massing including front roof lights positioning and ridge height increase, changes to existing windows and changes to door and window layout of rear extension'.

Summary Decision: The appeal is allowed in part and planning permission is granted to that extent in the terms set out below in the Formal Decision. The appeal is otherwise dismissed.

Preliminary Matters

1. There is little evidence the Council objected to the front and side rooflights or altered door and window layout shown in the 'as proposed' plans, which are in situ. Nor to two first floor rear windows which are taller than shown in these plans and some minor changes to the internal floor layout. It is common ground that the 'unauthorised roof structure' referred to in the enforcement notice comprises a raised roof ridge height, front and rear roof slopes rebuilt at an increased angle and an enlarged rear roof dormer. I have therefore determined the appeals on this same basis.

Appeals A and B

Enforcement notice

2. I have a duty to make sure the notice is in order. In Schedule 2, I shall clarify the breach of planning control as the 'unauthorised roof structure' to make it consistent with the requirement in Schedule 4(1). In Schedules 2 and 4(2) I shall omit the plan reference because that ground floor layout plan does not show the roof structure previously approved by the Council, which anyway appears in more than one approved plan. I am satisfied that no injustice will be caused to the main parties.

Ground (f)

3. In ground (f) the appellants must demonstrate that the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control. The notice does not seek to under-enforce.
4. They contend that the raised ridge height, rebuilt front and rear slopes and the enlarged rear dormer are 'relatively minor' differences compared to the approved plans. However, the planning merits of the unauthorised roof structure cannot be considered in Appeals A or B because there is no ground (a) present. I have, though, taken account of these matters in Appeal C.
5. I have no reason to doubt that building and fitting out the unauthorised roof structure incurred a significant cost. There is, though, little evidence that costs to restore it in accordance with the approved plans, including demolitions, would be 'out of proportion to the extent of the breach'. Nor to substantiate claimed inability to meet such costs and no lesser steps have been suggested. Only the Council can withdraw the notice but it has not done so.
6. It is open to me to consider obvious alternatives that would overcome the planning harm set out in the notice. This could include a scheme for the smaller rear dormer shown in the approved plans set in the rear roof slope as built, subject to details of position and reinstatement of the residual roof opening to match. Otherwise, and potentially at less cost or disruption, a scheme without a rear dormer and reinstate the roof to match the as built rear roof slope. However, there is no combination of plans before me to either effect.
7. In these circumstances, I am satisfied the requirements of the notice are consistent with remedying the breach of planning control so I find that they are not excessive.

Ground (g)

8. Ground (g) is that the three month period specified in the notice to take the steps required by it falls short of what should be reasonably allowed. No other time period has been suggested.
9. I accept that the appellants' personal circumstances (outlined in Appeal C) would be an aggravating influence on their ability to achieve the requirements of the notice within three months, including a need to look for temporary living accommodation elsewhere and make such arrangements. Removing the unauthorised roof structure and restoring it in accordance with the approved plans would anyway involve extensive works to the upper part of the house, including partial demolition. This would need a builder, a scaffolder and a waste removals

contractor with requisite lead-in time and programming of the works. It is also unlikely that all these tradespersons would be available immediately.

10. Taking account of this, I consider that three months falls short of what is reasonable to comply with the requirements of the notice. I therefore find that it would be proportionate to extend the period for compliance to six months commencing from the date of my decision. This would also give the appellants, should they wish, an opportunity to submit a planning application seeking permission from the Council for an authorised roof structure, such as an alternative outlined earlier. But that is a subsequent matter for the main parties.

Conclusion on Appeals A and B

11. For the reasons given above, I conclude that ground (f) fails but ground (g) succeeds and I shall vary the notice accordingly prior to upholding it.

Appeal C

Main issue

12. The main issue is the effect of the unauthorised roof structure on the character and appearance of No.23 Alexandra Road and the area.

Reasons

13. No.23 is a semi-detached house paired with No.21 fronting Alexandra Road in a mainly residential area. Mostly contiguous roof ridge lines and flush front and rear roof slopes give a simple uncluttered form to dwellings that is locally distinctive, especially stretching across semi-detached and terraced houses with little evidence of rear dormers in this road.

Raised ridge height, rebuilt front and rear slopes

14. Despite retaining the original eaves level of No.23, consistent with No.21, the plane of the rebuilt front and rear roof slopes jut progressively further out, upwards towards the raised ridge height. These parts of No.23 no longer precisely match No.21.
15. However, the steeper roof pitch is slight and though the ridge is taller than at No.21 it is not by much. A raised edge at the join between the respective front and rear roof planes of these two houses has negligible thickness lower down near the eaves. Though more pronounced higher up near the ridge, it is still a relatively narrow band of pale cement or mortar. This limited, stepped transition between the respective roofs is also partly assimilated next to the taller central chimney stack. This would remain the case if the line of new ridge tiles was completed in accordance with an as proposed plan, which could be secured by a condition. A condition could also ensure that the raised edge was made less conspicuous with a dark cement or mortar, lead flashing or a suitable standing seam.
16. In close views from the pavement or adjoining gardens these parts of the unauthorised roof structure can be noticed as no longer symmetrical with No.21. There is also a contrast between the thick, corrugated profile of the concrete interlocking tiles at No.23 and the thin, flat profile of the slates at No.21. But the rebuilt roof slopes are not overly bulky or disproportionate compared to the rest of No.23 or next to No.21. Moreover, variation in adjacent tiles and slates is evident

elsewhere in this road, including at another pair of semi-detached houses and in a terrace. There is also no fundamental change to the overall shape, form or scale and massing of this upper part of No.23 or in relation to No.21 and the differences are hard to notice in more distant views. Here, these parts of No.23 essentially appear as a continuation of the roof form of No.21, with a strong horizontal emphasis, largely recessive presence in this streetscene and not at odds with nearby dwellings.

17. Consequently, these parts of the unauthorised roof structure already built, and as could be altered, are in-keeping so do not unbalance this pair of houses in a jarring or disparate way. Nor do they render No.23, including if taken with No.21, out of kilter with nearby dwellings. I therefore find that this part of the unauthorised roof structure would not cause demonstrable harm to the character or appearance of No.23 or the area.
18. The raised ridge height and rebuilt front and rear slopes are of a sufficient intrinsic high standard of design to reflect the overarching aim of the Policy EN1 of the Council's Core Strategy and Policies Development Plan Document, February 2009. Furthermore, though functional rather than attractive, this development maintains the overall design integrity of No.23 in terms of scale, height, proportions and, subject to a condition, so too in materials, including a satisfactory relationship to No.21 and other dwellings nearby. As such, it maintains a positive influence on the Alexandra Road streetscene, so does not conflict with Policy EN1(a) or relevant guidance in the Council's Design of Residential Extensions and New Residential Development Supplementary Planning Document, April 2011 (the SPD).

Enlarged rear dormer

19. External materials in the enlarged rear dormer are sympathetic to No.23, No.21 and nearby dwellings. In principle, it is a typically conventional rear loft dormer design.
20. However, the flat roof is almost level with the raised ridge line, the gap above the eaves is narrow and there is little separation with the roof of No.21 and the chimney stack. As a result, this large structure stretches across most of the horizontal and vertical plane of the rebuilt rear slope. The substantial scale, massing and bulk of angular built form unduly protrudes beyond the plane of the roof slope in this elevated part of the house. It largely obliterates appreciation of this part of the main pitched roof and towers above much of the house, significantly altering its form.
21. I could not see the enlarged dormer from the pavement in front of No.23 or in the streetscene. But its incongruous presence can be glimpsed over a fence from a public footpath to the south of the site and from some rear gardens close by.
22. The notably smaller approved rear dormer would have been set more within the confines of the original roof plane and lower ridge of No.23. Allied to increased separation from the eaves of No.23, roof of No.21 and the chimney stack it would have a more limited, cohesive physical and visual presence. Whereas the enlarged rear dormer is intrusive and overly dominant, at odds with No.23 and other nearby dwellings including No.21. Conditions could not make it acceptable given a fundamental incompatibility due to its excessive size.
23. Consequently, I find that this part of the unauthorised roof structure causes material harm to the character and appearance of No.23 and the area so it conflicts with Policy EN1(a) and the SPD.

Personal circumstances

24. I am informed that changes to the approved roof structure were made during construction without the appellant's consent, including when the she and her husband were temporarily living elsewhere because of the disruption to their living conditions. Also, that the appellant has not been able to secure the return of the builder to 'rectify' the unauthorised roof structure. There is evidence the Council notified the appellant about these changes before the unauthorised roof structure was completed. Albeit not intended, nor reason given why enlargement of the house was originally sought, the additional living space created by the unauthorised roof structure nonetheless provides an appreciable private benefit to the appellants beyond that approved by the Council.
25. I have no doubt this has been a stressful experience. I recognise that dismissing Appeal C, or in part, would reduce the size of the house and result in further disruption and costs given the remedial works sought in the enforcement notice. This would directly interfere with the appellant's and her husband's private rights to enjoyment of their possessions, to family life and their home¹. I have also had due regard to their age, disability, race and religion or belief protected characteristics for the purposes of the Public Sector Equality Duty, including the need to eliminate discrimination or harassment, foster good relations and advance equal opportunity². These are important considerations and they have significant weight.
26. However, they are qualified rights which can be infringed by a decision under planning legislative provisions, where justified. Accordingly, these factors must be weighed against the wider public interest. The enlarged rear dormer is causing material harm to character and appearance, in conflict with local planning policy consistent with provisions of the National Planning Policy Framework. I am satisfied that this well-established legitimate aim can only be adequately safeguarded by the refusal of planning permission for this part of the unauthorised roof structure. Dismissing the appeal for this part of the development applied for would be a proportionate outcome, having also considered it on its individual planning merits.

Conditions

27. The Council suggested conditions if planning permission was granted. A standard time limit condition would not be necessary because the development applied for has already begun. Nor is an approved plans condition necessary because other than some ridge tiles this development is complete. A condition requiring external facing materials to match No.23 would not be reasonable as there is little evidence the Council objected to those that have been used, which I have anyway found suitable. A condition to prevent raising existing levels on the site due to flood risk would not be relevant to the development applied for, which is above ground. There is little objective justification before me that removing spoil or excess building materials from the site is necessary to avert flooding.

Conclusion on Appeal C

28. Other material considerations do not indicate that this appeal should be determined otherwise than in accordance with the development plan taken as a whole. For the reasons given above, I conclude that Appeal C succeeds in part and fails in part.

¹ Human Rights Act 1998

² Equality Act 2010

29. The raised ridge height and rebuilt front and rear slopes are severable from the enlarged rear dormer, as are the front and side rooflights and the alterations to windows and doors applied for or as built. Though not requested, I can therefore issue a split decision in Appeal C. I have also had regard to the description of development used by the Council because in some respects it is more accurate than the appellant's and I have omitted wording that is not development.

Overall Conclusions on Appeals A, B and C

30. Appeal C succeeds in part, but Appeals A and B largely fail. Given s180(1) of the Act, the notice need not be varied further, but the notice will cease to have effect in so far as it is inconsistent with the planning permission I have granted. Accordingly, only the enlarged rear dormer needs to be removed.

Formal Decisions

Appeals A and B

31. Appeals A and B fail on ground (f) but succeed on ground (g) and it is directed that the enforcement notice is varied by substitution of six months as the period for compliance.

32. It is also directed that the enforcement notice is varied by:

- In schedule 4(2), delete the existing wording and substitute with '*Restore a roof structure in accordance with the approved plans granted permission under 20/00545/HOU*'.

33. It is further directed that the enforcement notice is corrected by:

- In Schedule 2, delete '*...ridge has been raised by 0.12m,...*' and substitute with '*...unauthorised roof structure...*'.
- In Schedule 2, delete '*...(TSL/THEL/23/01 Rev A) of...*'.

34. Subject to these variations and corrections the appeals are dismissed and the enforcement notice is upheld.

Appeal C

35. Appeal C fails in so far as it relates to the enlarged rear dormer but otherwise succeeds. The appeal is allowed in part and planning permission is granted for the raised roof ridge height, rebuilt front and rear roof slopes, front and side rooflights, alterations to a window and a door in the flat roof single-storey rear extension, alterations to two windows in the first floor rear elevation and changes to internal floor layout at 23 Alexandra Road, Ashford, Surrey TW15 1TW and subject to the following conditions:

- 1) Within 1 month of the date of this decision, details of materials, including colour, for the raised edge between the front and rear roof planes of No.23 and No.21 Alexandra Road shall be submitted to the Council for its approval. The approved details shall be carried out within 3 months of the date of the Council's approval and thereafter be retained.

- 2) Within 6 months of the date of this decision, the line of ridge tiles shall be completed in accordance with submitted plan number TSL/ALX/23/R06 using tiles to match the existing ridge tiles and thereafter be retained.

36. The appeal is otherwise dismissed.

Robin Buchanan

INSPECTOR