

Appeal Decision

Site visit made on 4 June 2025

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 June 2025

Appeal Ref: APP/B5480/C/23/3326932

The land known as 1 Spinney Close, Rainham RM13 8LR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Dr. Moonmoon Kalam against an enforcement notice issued by the Council of the London Borough of Havering.
- The notice was issued on 10 July 2023.
- The breach of planning control as alleged in the notice is without planning permission, the construction of a side dormer window.
- The requirements of the notice are:
 - Either Option One
 1. Demolish and remove the dormer window in the northern flank elevation (which faces 1, 3 and 5 Frederick Road); and
 2. Remove from the property all other debris, rubbish or other materials accumulated as a result of taking step 1 above.
 - Or Option Two
 3. Permanently fix shut and fit with obscure glazing to at least "Pilkington Level four" standard of obscurity all windows on the north elevation of the dormer window extension except for any window which is above 1.7 metres above the internal floor level; and
 4. Remove from the property all other debris, rubbish or other materials accumulated as a result of taking step 3 above.
- The period for compliance with the requirements is: 2 months.
- The appeal is proceeding on the grounds set out in section 174(2)(b), (c) and (e) of the Town and Country Planning Act 1990 (as amended) ("the Act").

Summary of decision: The appeal is dismissed, and the enforcement notice is upheld with corrections in the terms set out below in the Formal Decision.

Preliminary matters

1. Parts of the appellant's case refer to other developments in the locality. As no appeal has been made on ground (a) I am not able to consider the merits of the development or compare it with others.

The appeal on ground (e)

2. Appeals on ground (e) are made on the basis that copies of the enforcement notice were not served as required.
3. Section 172 of the Act requires a copy of an enforcement notice to be served:
 - (a) on the owner and on the occupier of the land to which it relates; and
 - (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.
4. And it shall be served:
 - (a) not more than twenty-eight days after its date of issue; and
 - (b) not less than twenty-eight days before the date specified in it as the date on which it is to take effect.
5. The appellant's case is that they did not receive the Notice directly from the Council, but from their bank.

6. The Council's certificate of service records the appellant (along with 'the owner' and 'the occupier') was served at the Land by hand on 10 July 2023. Photographs stamped with that date purport to show the 3 letters being posted, and show not only the door, but the door in its context with the address clearly visible. The certificate also records the appellant was served by email, and that the bank was served by 1st class post on the same day.
7. On the balance of probabilities, with the evidence before me, the appellant was correctly served with the Notice.
8. But even if the appellant was not properly served, they lodged an appeal on 31 July 2023, eleven days before the Notice came into force. The appellant has therefore not been substantially prejudiced by any failure of the Council to serve them with copies of the EN, if that occurred. In that event, I would disregard the failure to serve the appellant in accordance with Section 176(5) of the Act.
9. In conclusion, the appeal on ground (e) fails.

The appeal on ground (b)

10. Appeals on ground (b) are made on the basis that the matters stated in the notice, as constituting the breach of planning control, have not occurred.
11. The appellant's argument on ground (b) is that there is no breach as the loft conversion is 'permitted development'. That is a matter for ground (c), which I consider below.
12. The appellant does not dispute that a 'dormer' has been constructed. The dormer roof extension is a large structure which contains more than one window. Section 3 of the Notice describes the alleged breach of planning control as the construction of a side dormer window without planning permission. As the dormer contains more than one window, it would more accurately be described as a "dormer roof extension".
13. Correction of that term in Section 3 would require consequential changes to the requirements in Section 5, where the words, 'dormer window' should also be replaced with the words, "dormer roof extension".
14. No injustice would arise to either party were I to correct the Notice accordingly, and I shall do so in my formal decision.
15. The appeal on ground (b) therefore succeeds to a limited extent.

The appeal on ground (c)

16. Appeals on ground (c) are made on the basis that the matters stated in the notice, (if they occurred) do not constitute a breach of planning control.
17. The construction of a dormer roof extension is development for the purposes of Section 55 of the Act, and planning permission is therefore required for it under Section 57.
18. The appellant's case is that the development benefits from deemed planning permission, as 'permitted development' under The Town and Country Planning (General Permitted Development) (England) Order 2015 ("the GPDO").
19. The first issue before me is whether the dormer roof extension is on the principal elevation of the property.

20. The MHCLG Permitted development rights for householders Technical Guidance (2019) states that, in most cases, the principal elevation will be the part of the house which fronts the main highway, and will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house.
21. In this case, the frontage facing the street contains a bay window and three other windows, and faces a forecourt adjacent to the street. From the street, the front door is visible on the side of the house, being part of a porch style extension, but facing the front. Prior to the works, the side elevation had only limited features visible from the street, with two small high-level first floor windows, and service vents. The front elevation therefore reads as the principal elevation, and is so for the purposes of Schedule 2, Part 1 of the GPDO ("Part 1"). Further works undertaken by the time of my site visit have brought the front door forwards, where it reads as a part of the front elevation, which further confirms the street-facing elevation is the principal elevation.
22. The second issue is that Part 1, Class B of the GPDO permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof, subject to conditions and limitations. Condition B.2.(c) requires any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse to be obscure-glazed, and non-opening unless the opening parts are more than 1.7 metres above floor level. As the front of the house is the principal elevation, the dormer has been constructed on a side elevation.
23. The Council have provided photographs, date stamped 22 June 2022 and 10 July 2023, which show the windows in the dormer roof extension open. Two of its windows were also open at the time of my site visit, and the appellant acknowledges they are openable, with restrictors which allow slight opening. At least one of the windows was clearly not more than 1.7 metres above internal floor level.
24. As the conditions of Part 1, Class B of the GPDO had not been complied with, the development was not permitted development. Planning permission was therefore not granted for it under Article 3(1) of the GPDO.
25. The appeal on ground (c) therefore fails.

Conclusion

26. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections.

Decision

27. It is directed that the enforcement notice is corrected by the deletion of the words "dormer window" and their substitution with the words "dormer roof extension" in Sections 3, 5(1) and 5(3).
28. Subject to the corrections, the appeal is dismissed, and the enforcement notice is upheld.

Peter White

INSPECTOR