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## Appeal Decision

Site visit made on 9 January 2018

**by Lynne Evans BA MA MRTPI MRICS**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 30 January 2018**

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**Appeal Ref: APP/P3610/D/17/3187207**

**24 Redwood Drive, Epsom, Surrey KT19 8FL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Nin Prakash against the decision of Epsom & Ewell Borough Council.
  - The application Ref: 17/00115/MMA dated 21 April 2017 was refused by notice dated 26 July 2017.
  - The application sought planning permission for loft conversion with 2 dormers in the front elevation, 3 x rooflights in the rear elevation and 1 x window in the side elevation without complying with a condition attached to planning permission Ref: 15/01378/FLH dated 11 February 2016
  - The condition in dispute is No 2 which states that: *The development hereby permitted shall be carried out in accordance with the following approved plans: 24RD04 and 24RD05 Rev A dated 10.09.15.*
  - The reason given for the condition is: *For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans to comply with Policy CS5 of the Core Strategy 2007.*
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Planning permission was granted by the Council under its reference 15/01378/FLH in February 2016 for loft conversion with 2 dormers in the front elevation, 3 x rooflights in the rear elevation and 1 x window in the side elevation. The approved plans as listed under condition 2 are 24RD04 and 24RD05A showing two separately spaced, flat roof dormers on the front roof slope. A copy of those plans has been provided to me.
3. The Appellant submitted an application for a non-material amendment which was described as proposed infill dormer at the rear elevation. The submitted plans show the two front dormers with a flat roof infill dormer between, set in from the front of the dormers. It would appear from the information provided by both the Appellant and the Council and as confirmed at my site visit that the dormer windows with the infill panel have been constructed.
4. The Council registered the application as a minor material amendment and refused permission for the amendment. Minor material amendments can be

sought by making an application under Section 73 to vary or remove a condition attached to a planning permission. Indeed, the Planning Practice Guidance (PPG) advises that one of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

5. In this case, it is my view that the Appellant is seeking to substitute plans of the front dormer as built (24RD04 and 24RD05 both dated 19.04.17) for the plans approved under 15/01378/FLH. I have therefore determined the appeal as one made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted and in this case Condition 2 of 15/01378/FLH.
6. I am advised that an enforcement appeal is proceeding under the ref: APP/P3610/C/17/3191042 but my consideration is focussed solely on the appeal before me.

### **Main Issue**

7. The main issue in this appeal is the effect of the front dormers with infill panel on the street scene.

### **Reasons**

8. The appeal property is a recently constructed attached dwelling on the south side of Redwood Drive and within a larger residential development. There is a varied pattern of development within a landscaped setting but dormers are not generally part of the street scene. The front dormers as constructed on the appeal property, and notwithstanding the set back of the infill panel between the two dormers, are read as one large and very wide and bulky dormer which is an overly dominant addition to the roof of this dwelling. The result is that the dwelling appears top heavy and the extended dormer, given its width, scale and bulk is visually intrusive to the detriment of both the character and appearance of the dwelling as well as the street scene.
9. I therefore find that the development as undertaken is harmful to the street scene and that the minor material amendment proposed to substitute plans as built for the plans listed under Condition 2 of permission would harm the street scene. The development as constructed conflicts and therefore the amendment proposed would conflict with Policy CS5 of the Council's adopted Core Strategy 2007, Policies DM9 and DM10 of the Development Management Policies Document 2015, the Council's Supplementary Planning Guidance on Householder Extensions 2004 as well as the National Planning Policy Framework and in particular Section 7, all of which require high quality design which respects the local context and local distinctiveness.
10. The Appellant has drawn my attention to the dormer extension at 48 Redwood Drive on the rear roof slope. I do not agree with the Council's contention that as this is a rear roof dormer it has no impact on public visual amenity. It is clearly seen in the street scene, albeit at a greater distance than the appeal development. However, it is sufficiently different in its detailed design to the development before me that it does not persuade me to a different conclusion in this case.

11. I have noted the reason for seeking approval for the amended design to improve the accommodation provided but this does not outweigh the harm I have concluded.
12. For the reasons given above and having regard to all other matters raised, the appeal is dismissed.

*L J Evans*

INSPECTOR