



Appeal Decision

Site Visit made on 27 April 2021

by Stewart Glassar BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2021

Appeal Ref: APP/L2250/D/20/3254581

35 Fort Road, Hythe, CT21 6JS

- 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 S Bing against the decision of Folkestone and Hythe District Council.
 - The application Ref 20/0255/FH, dated 22 February 2020, was refused by notice dated 20 April 2020.
 - The development proposed is single storey rear/side extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Between the determination of the planning application and the appeal coming before me, the Council adopted the Places and Policies Local Plan in September 2020. The policy of that document relevant to this appeal is HB8, referred to in the evidence of both parties as an emerging policy. The Council has confirmed that the saved policies of the 2006 Local Plan have now been superseded. The appellant has been made aware of this situation and has had an opportunity to make any comments in this respect. I have determined the appeal with regard to the adopted development plan at the time I make this decision.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the occupants of No.33 Fort Road, with particular regard to light and whether or not it would be overbearing.

Reasons

4. The appeal site is a two-storey terraced property with rear outrigger. The proposal is a single storey extension which would wrap around the outrigger. The highest part of the appeal proposal would be where it adjoins the outrigger of the neighbour at No.33 Fort Road.
5. The rear elevation of the neighbour's outrigger contains glazed doors that provide the main source of light to a kitchen and allow access out onto a decked and paved area. The proposed extension would replace an existing boundary wall between Nos. 35 and 33 but would be significantly higher. Due to its height, depth and orientation, the proposed extension would cast a significant shadow across the rear of the neighbour's outrigger and part of the garden during the first half of the day. Given the neighbour's existing outbuilding on the northern boundary, the decked and paved area to the rear

of the outrigger would also become noticeably more enclosed given the height and depth of the proposed extension.

6. I therefore conclude that the appeal proposal would compromise both the light to the neighbour's kitchen and impinge unfairly on the use of the garden area. Accordingly, it would be overbearing and thus reduce the quality of the experience for users. This would cause harm to the living conditions of the occupants of No.33, which would accordingly lead to conflict with Policy HB8 of the Local Plan¹ which, amongst other things, seeks to ensure development protects the living conditions of neighbouring occupants. The proposal would also be contrary to the Framework², specifically paragraph 127, which amongst other things seeks to ensure new development provides a high standard of amenity for existing occupiers.

Other Matters

7. I have been referred to the concurrent appeal at No. 33 Fort Road, which is also being proposed by the appellant and which may go some way to addressing the harm I have found. Whilst having the same appellant adds weight to the possibility of the two extensions, if allowed, coming forward at the same time, there is no guarantee that this will happen nor that the appellant will retain an interest in both properties. As two separate proposals, I have to consider them separately and be mindful of all possible eventualities. One possible outcome, despite the appellant's best intentions, could be that only one extension is built. It is not possible to condition separate schemes to be built concurrently or indeed control the implementation of a different planning permission through the granting of another. Therefore, the weight I can attribute to this other appeal is limited.
8. Both of the main parties have referred to the previous appeal decision at No. 37 Fort Road and the appellant has cited this as an important justification for the current proposal. However, there are important differences. This current appeal scheme would be higher on the boundary than the extension at No.37. Also, in assessing the previous appeal, my colleague identified which part of the rear garden to No.35 might be affected but considered that it had the appearance of a passageway and was unlikely to be used recreationally. In contrast, the proposed extension before me would be directly adjacent to an area of garden that appears to be used recreationally. Indeed, at the time of my visit, the decked and paved area outside the rear glazed doors to No.33 was set out as an outdoor cooking/servery area. Accordingly, the weight I can attribute to this previous appeal is limited.

Conclusion

9. I ascribe significant weight to the harms I have found and the subsequent conflict with the development plan. It is for this reason, taking into account the above, that the proposal should be dismissed.

Stewart Glassar

INSPECTOR

¹ Places and Policies Local Plan (September 2020)

² National Planning Policy Framework (2019)