



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/20/3254580

33 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 20/0254/FH, dated 22 February 2020, was refused by notice dated 20 April 2020.
 - The development proposed is a single storey rear 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 The Council has confirmed that the saved policies of the 2006 Local Plan have now been superseded.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.35 Fort Road, with particular regard to outlook.

Reasons

4. The appeal site is a two-storey, end of terrace property with rear outrigger. The proposal is a single storey extension which will wrap around the outrigger. The highest part of the appeal proposal would be where it adjoins the outrigger of the neighbour at No.35 Fort Road.
5. The rear elevation of the outrigger to No.35 contains an east facing kitchen window. This window is close to the boundary with the appeal site. There is another window and door also serving the kitchen, on the side of the outrigger. However, the outlook they offer is limited as they face the side elevation of No.37. Accordingly, the rear window is an important source of outlook for the room.
6. The proposed extension would be significantly higher than the existing boundary wall that it would replace between Nos. 33 and 35. Given its height,

depth and position close to the kitchen window of No.35, the proposal would appear as a sizeable and noticeable structure that would dominate the outlook from this window. Accordingly, it would be harmful to the living conditions of the occupants at No.35.

7. The rear garden to No.35 is generally open and provides a pleasant area for the occupants to enjoy. However, the area closest to the rear of this neighbour's outrigger would become noticeably more enclosed as a result of the appeal proposal. Given the existing extension at No.37, there would be a 'tunnelling' effect that would detrimentally affect the outlook from the garden, make this part of it considerably less open and thus a less attractive area to spend time in. This sense of enclosure would lead to further harm to the living conditions of the occupants at No.35.
8. Overall, the proposal would cause harm to the living conditions of the occupants of No.35 Fort Road, with particular regard to outlook and creating a sense of enclosure.
9. Accordingly, the proposed extension would be contrary to 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

10. I have been referred to the concurrent appeal at No. 35 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 set out in one planning permission that a separate one is implemented. Therefore, the weight I can attribute to this other appeal is limited.
11. 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 in support of the current proposal. Whilst my colleague was considering the impact of that extension on No.35, I must consider the cumulative impact of an extension either side of No.35. In addition, the appeal scheme before me would be higher on the boundary with No.35, than the extension at No.37. These are important differences. Accordingly, the weight I can attribute to this previous appeal is limited

¹ Places and Policies Local Plan (September 2020)

² National Planning Policy Framework (2019)

Conclusion

12. I ascribe significant weight to the harm that the proposed development would cause, along with the subsequent conflict there would be with the development plan. It is for this reason, taking into account the above, that the appeal should be dismissed.

Stewart Glassar

INSPECTOR