The Planning Inspectorate

Appeal Decision

Site visit made on 5 January 2022

by Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 19 JANUARY 2022

Appeal Ref: APP/B5480/D/21/3285680
20 St Albans Avenue, Upminster, RM14 3JS

- 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 Edward Stuckey against the decision of the London Borough of Havering.
- The application Ref P1497.21, dated 28 July 2021, was refused by notice dated 22 September 2021.
- The development proposed is the conversion of roof space to habitable use to include front and rear dormers, and conversion of roof from hip to gable end to include new gable end window.

Decision

1. The appeal is allowed and planning permission is granted for the conversion of roof space to habitable use to include front and rear dormers, and conversion of roof from hip to gable end to include new gable end window at 20 St Albans Avenue, Upminster, RM14 3JS in accordance with the terms of the application, Ref P1497.21, dated 28 July 2021, subject to the following conditions:

   1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

   2) The development hereby permitted shall not be carried out otherwise than complete accordance with the approved plans reference 101, 102, 103, 104, 105, and 106.

   3) All new external finishes shall be in materials to match those of the existing building.

   4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, no window or other opening (other than those shown on the submitted and approved plans,) shall be formed in the flank wall of the development hereby permitted, unless specific permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

   5) The proposed flank windows serving the landing and bathroom as shown on drawings numbers 105 and 106, with the exception of any top hung fanlight, shall be permanently glazed with obscure glass not less than level

4 on the standard scale of obscurity and permanently fixed shut and shall thereafter be maintained in that form.

Main Issues

2. There are 2 main issues in this case: i) the effect of the gabled roof on the character of the host dwelling and the semi-detached bungalows in the road; and ii) the effect of the front dormer window on the character and appearance of the host dwelling and the semi-detached pair of which it is part.

Reasons

3. St Albans Avenue consists of semi-detached bungalows, all of which originally had hipped roofs. There are 2 basic designs in the original development, some have forward projections, but still under hipped roofs. A number of bungalows have been extended upwards by the insertion of dormer windows in the roof, and there are evident examples of conversion to a gable roof to one dwelling in a pair. The council states that such examples of conversions to gables have occurred outside of planning control and a Lawful Development Certificate was given by the council in respect of No. 14 St Albans Avenue for a hip to gable conversion and rear dormer. This alteration to the roof at No. 14 has since been carried out, as I saw at my site visit. A similar Certificate at No. 16 is also referred to.

4. In respect of the first issue, at present the avenue has largely retained a pleasant character from the original construction period. The odd examples where there have been changes to the roof of one of a pair are conspicuous in the street scene. It is understandable why the officer took the view that resulted in the refusal of permission, bearing in mind the policies in the Residential Extensions and Alterations Supplementary Planning Document which stems from Policy DC61 of the council's Core Strategy and Development Control Policies Development Plan Document. A single hip to gable alteration to a pair of semi-detached does indeed unbalance the pair and have a rather incongruous appearance. Had that been the only consideration, I would have concluded as the officer did.

5. However, the matter of a 'fallback position' has been raised, and this is a material consideration in this case. The decision in the case of Gambone v. Secretary of State for Communities and Local Government and Wolverhampton City Council [2014] EWHC 952 (Admin) is referred to in some detail in the appellants appeal statement, such that I need not set it out here. Suffice to say that a fallback can be a material consideration where there is a greater than theoretical possibility of the development taking place, and can be a form of development that is allowed for by virtue of entitlements such as provided by the General Permitted Development Order (GPDO). The weight to be given to such a fallback is a matter for the decision maker in the circumstances of the case, including the scale of harm which would arise.

6. The appellant accepts that the totality of the appeal proposal could not be achieved by way of the fallback, which in this case is Class B – additions etc to the roof of a dwellinghouse – of the GPDO. The front dormer is not permitted under this class because it fronts a highway, and the hip to gable and rear dormer does not conform because the volume exceeds 50 m^3. However, in respect of the latter, the appellant's argument is that the excess above 50 m^3 is marginal at 7 m^3, and the proposal for the dormer could be reduced by this

amount, providing the appellant with most of the accommodation (in this part of the proposal) that is sought.

7. Looking at the extent to which this is a real possibility rather than theoretical, it seems to me that the fact that a scheme was drawn up, a planning application submitted, and an appeal entered, all point to a desire by the appellant to carry out the development and suggest that some financial planning has also taken place. The fact that the fallback would provide less that is desired, is a negative factor in terms of it being a likely path to follow, but it may be something of a cheaper option, which could have attraction. I conclude that there is a greater than theoretical possibility of the fallback development taking place in the event of this appeal being dismissed. The other cases referred to that have been carried out without express planning permission also show that this is seen as a beneficial addition to these bungalows. I will turn to the weight to be given to this in my overall conclusions.

8. I now turn to the second issue - the effect of the front dormer window on the character and appearance of the host dwelling and the semi-detached pair of which it is part. Clearly the front dormer is part of a single scheme that provides the accommodation sought, and it could not be developed as a stand-alone element without the gable and rear dormer. Nevertheless, at this point it is necessary to separate this element from the rest of the appeal scheme, before coming to an overall conclusion, since the outcome of the second issue could have a decisive effect on the decision on the total appeal proposal.

9. Looking at the front dormer alone, it must be seen in the context that there are a substantial number of front dormers in St Albans Avenue already; thus a front dormer does not have the impact of being unusual in the street scene. Furthermore, there are examples that I consider are more intrusive than the appeal proposal. This is because, in some instances they combine in a pair of semi-detached bungalows to be incongruous through a difference in scale and form, taking no account of each other. In other cases their size and position in the roof is unsympathetic and out of scale with the roof within which they are set.

10. The appeal proposal is relatively small, being set down from the ridge, well up from the eaves and having suitable gaps on either side. I consider that in the context of existing front dormers the appeal proposal is acceptable and would not have an overly harmful effect on the character and appearance of the host dwelling or the semi-detached neighbour. But, since it relies on the gable form of roof, can only be considered favourably if the hip to gable can be approved.

Overall conclusion

11. In my judgement the fallback proposition is a material consideration of some weight: it is certainly more that a theoretical possibility, and I regard it as being more than likely to be implemented in the event of the appeal being dismissed. Taken with the fact that there are other examples in the vicinity and that it is likely to be an enlargement of the quite modest bungalows that will be attractive to others, it seems to me that the balance comes down to accepting a likely hip to gable outcome, and permitting a scheme that would provide a designed solution to the appellant's wish for greater accommodation more suited to modern lifestyles. In this case this includes the provision of a home working space, as proposed on the ground floor. I reach this view with the

recognition that a gable on one roof of a pair introduces the unfortunate effect that I have referred to in paragraph 4 above.

12. In the situation where the hip to gable configuration is accepted because of the strength of the fallback, the front dormer becomes a feature that is rather familiar in St Albans Avenue, and the particular form and proportions proposed minimise its impact. Overall I find that the front dormer is an acceptable feature in the composition of the overall appeal proposal.

13. In the light of these conclusions, and having taken all other matters into account, I will allow the appeal.

Conditions

14. The Council has suggested a number of conditions in the event that the appeal is upheld. I have considered these in the light of Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG I have amended some of the text. I consider that the conditions should be imposed for the following reasons: condition 2 is required for certainty and avoidance of doubt as to the development permitted; condition 3 is to ensure that the appearance of the development permitted integrates with the existing in a visually satisfactory manner; conditions 4 and 5 are to ensure no loss of privacy to the neighbouring property.

Terrence Kemmann-Lane

INSPECTOR