



Appeal Decision

Site visit made on 27 May 2022

by **P. D. Biggers** BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st July 2022

Appeal Ref: APP/V0510/D/22/3296004

Mulberry House 44 Mill Lane, Fordham CB7 5NQ.

- 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 and Mrs Hilborn against the decision of East Cambridgeshire District Council.
 - The application 21/01685/FUL, dated 17 November 2021, was refused by notice dated 3 February 2022.
 - The development proposed is for an alteration to the building to provide a 'Lifetime Home' with level access into the building and garden, improved circulation widths for wheelchair access, for improved mobility within the dwelling, improved internal heights and increased fenestration to improve headroom and natural daylighting, external insulation with a green roof to the existing rear extension to resolve existing moisture ingress problems with the fabric of the dwelling, provide increased thermal and sound attenuation performance in line with current building regulations.
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Application for Costs

1. An application for costs was made by Mr and Mrs Hilborn against East Cambridgeshire District Council. This application is the subject of a separate decision.

Decision

2. The appeal is dismissed in respect of the alterations to the rear extension and new fenestration to the rear of the appeal property.
3. The appeal is allowed and permission is granted for a new south entrance at Mulberry House 44 Mill Lane, Fordham CB7 5NQ in accordance with the terms of the application Ref 21/01685/FUL, dated 17 November 2021, insofar as it relates to the new entrance and subject to the following conditions:
 - 1) The development hereby permitted shall be begun no later than the expiration of 3 years from the date of approval.
 - 2) The development hereby permitted shall be carried out in accordance with the submitted documents and the following approved plans: insofar as these relate to the new entrance: H008/020/A; H008/021/B; H008/027/B; H008/031/B; H008/037/B.
 - 3) Notwithstanding Condition 2 above no development shall commence until a detailed design and materials specification for the new timber entrance door in the south facing elevation is submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved detailed design.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the host dwelling and its surroundings on Mill Lane and the Fordham Conservation Area.

Reasons

5. The appeal property sits on the west side of Mill Lane and is a two storeyed detached Victorian property built of red brick under a pantiled roof. The original house is relatively shallow in depth and has in the past been extended to the rear with the main roof extended over it in a catslide form. At the south end of the property a further two storey extension has been constructed with a rear offshoot again roofed over with a catslide from the main roof incorporating a rear offshot extension.
6. Mill Lane forms part of the Fordham Conservation Area. The lane is characterised by a mixture of property styles and materials but Mulberry House has been identified by the Council as a property that makes a positive contribution to the Conservation Area. This has not been formally recognised in any Conservation Area Character Appraisal, as one has not been prepared for Fordham, nor is the property identified in the Council's local list of heritage assets. However, it is not a matter of dispute between the parties that the frontage to the main house is of high significance to the street scene of Mill Lane.
7. It has been put to me that, in respect of the main elements of the proposal referenced in the reasons for refusal, there is a valid 'fallback' in that the alterations to the rear extension would constitute Permitted Development (PD) under the *General Permitted Development Order Schedule 2 Part 1 Class A*. The question of whether the proposal to alter the roof of the rear extension would have been PD is not straightforward. However the *Permitted Development Rights for Householders - Technical Guidance 2019* gives very clear advice regarding how the GPDO should be applied.
8. The Guide makes it very clear that enlargement or alteration involving alteration to any part of the roof of the dwelling house cannot be PD under Class A (k)(iv). The guidance explains that where work under Class A involves work requiring alteration to the existing roof that the alterations would also have to meet the requirements of Class B and / or Class C. In the appeal case as the roof takes a catslide form the alteration of the lower part of the catslide into a flat roof at greater height would be an alteration to the existing roof. Regarding the proposal and Class B, technically the alteration of the catslide roof into a higher flat roof would be an upward extension of the roof and as such under Class B(f) the alteration would not be PD given its location within the Conservation Area. I acknowledge that the guide in respect of Class C (Other roof alterations) does refer to circumstances where the work is simply to join an extension roof into the existing roof. It makes it clear that the limitation to projection from the roof plane should not be applied in cases where the roof of an extension to a house that is permitted development under Class A is joined to the roof of the original house. However, in the appeal case, it would not be simply a case of joining in the extension roof the proposal alters the existing roof. I am therefore not persuaded that the proposed alteration to the rear extension would constitute PD. In any event in another important respect the proposals would not satisfy Class A as the intention is to render the southern wall of the rear extension which, as the house is in a Conservation Area, would not be PD under Class A.2. In respect of the rear extension alteration therefore the proposal would not be PD and there is no 'fallback' position.

9. For the avoidance of doubt as the other elements of the appeal proposal namely the alterations to fenestration and the insertion of the new entrance would also have to comply with the requirement at A.3 that materials used should be of similar appearance I am not persuaded that these would constitute PD as different materials and colours and full height glazing is proposed for both doors and windows.
10. Having determined that there is no valid 'fallback' it remains to consider the various elements of the appeal proposal in the light of the policies of the *East Cambridgeshire Local Plan* (ECLP) and the responsibility in legislation to ensure that proposals would preserve or enhance the Conservation Area.
11. I have been referred to a number of permitted alterations and extensions, in particular ref 20/01310/FUL at 4 Carter Street, Fordham also within the Conservation Area, which the appellant considers justifies allowing this appeal proposal. I took the opportunity of visiting 4 Carter Street where the proposed extensions are under construction and having viewed the property I consider there are two principal differences. First the rear extension proposal which I have been referred to is for a contemporary style extension with full glazing rather than alterations to the fenestration of the existing house. Secondly, whereas the new roof form at Mulberry House would be clearly visible from the south on Mill Lane and the Conservation Area, the same is not the case with 4 Carter Street where from the site visit it appeared to be virtually impossible to see the flat roof form from the public realm. I am not therefore persuaded the cases are sufficiently comparable and in any event I must determine the appeal proposal on its own merits.
12. In respect of the roof alteration to raise the height of the rear extension and replace the catslide roof with a flat green roof, the cranked catslide roof is a characteristic form of the existing house which is clearly visible from the south on Mill Lane. The removal of the lower portion of the catslide and its replacement with a flat roof (albeit a green roof) would be detrimental in this view which is dominated by pitched roof forms on the main house and Bakehouse adjacent. I am not persuaded that an alternative design could not have achieved a higher internal ceiling height (which the appellants seek) without the adverse visual impact of the flat roof on this Conservation Area view.
13. Turning to the matter of the new fenestration to the rear elevation to the existing house the proposal would replace the small format windows with fully glazed opening doors. Whilst the height to the top of the proposed patio doors would appear to be set at approximately the height of the existing windows, in widening the existing windows and replacing the door the result would be full height glazing running virtually the full width of the rear elevation. The horizontal extent of the new windows would be excessive creating a completely different window to wall ratio on the rear of the building the appearance of which would be out of character with the existing property. I am not persuaded that the character of the original house would continue to be read in the context of this change. I acknowledge that the aim would be to facilitate greater accessibility for the ground floor rooms to the garden but again I am not persuaded that this could not have been achieved by a design more proportionate to the rear elevation.
14. It has been put to me that as this is a rear elevation which is not visible from the public realm there should be greater flexibility to allow the new fenestration and that the form and design of the windows would not harm the significance of the Conservation Area. I acknowledge that the rear of Mulberry House is not visible from the public realm and the full height glazing would not be seen other than

from the garden itself. However neither national nor local policy qualifies the requirement to preserve or enhance conservation areas by allowing any standard of design to the rear of properties simply because it cannot be seen. Were this the case it would quickly result in the cumulative erosion of characterful properties such as Mulberry House within the Conservation Area.

15. With respect to the proposal to install a new step free entrance on the south end of the property direct from the parking area into the kitchen this has been designed as a simpler version of the main entrance on the frontage without its pediment thereby marking it as a secondary entrance. The entrance would replace an existing window and therefore would only remove a small amount of walling. The timber frame and architraving would be in keeping with the style of the property and the principle of the secondary entrance on the southern end would not be an unattractive addition to the street scene. However, the intention that this would be a fully glazed door in what is a prominent location in views in from the south on Mill Lane would not be appropriate and would not preserve or enhance the Conservation Area. However, were a condition to be imposed requiring the submission and approval of the detailed design of the door it would be open to me to issue a split decision on the appeal allowing this element of the appeal proposal but dismissing the other alterations. The new entrance would not be physically or functionally dependent on the other alterations being carried out and therefore a split decision is appropriate.
16. The proposals involving the rear extension and rear elevation would be unsympathetic alterations and would harm the significance of the Conservation Area and would fail to preserve its character. Therefore the proposal would be contrary to Paragraph 199 in the Framework and Policy ENV11 of the ECLP which seeks to ensure that development within conservation areas is to a particularly high standard of design and that proposals should seek to retain attractive traditional materials and features. The form and nature of the proposed alterations as set out above would be detrimental to this building of character.
17. I accept that in this case the harm to the significance of the heritage asset would be less than substantial and, in these circumstances, Paragraph 202 of the Framework requires that the harm is weighed against any public benefit. However the appellant has not demonstrated any public benefit of the proposal. I acknowledge that the alterations may future proof the property and enable its occupation by those with impaired mobility but this remains largely a private benefit for present and future occupiers and not a public benefit. Therefore, there is insufficient public benefit to outweigh the harm to the significance of the Conservation Area from the proposal.
18. In addition to the specific statutory test regarding the Conservation Area the extensions would conflict with the policy objectives of Policy ENV2 of the ECLP that seeks a high quality of design enhancing and complementing local distinctiveness. The policy makes it clear that design which fails to have regard to local context including architectural traditions and does not preserve, enhance or enrich the character, appearance and quality of an area will be refused. Policy 2 of the *Fordham Neighbourhood Plan* (FNP) similarly deals with design and requires, amongst other things, that development should respond to important characteristics of the surrounding area including views, buildings and their materials and design features, heritage assets, etc. Mulberry House does make a positive contribution to character but, for the reasons above, the proposed alterations would undermine this. The proposal would therefore fail to meet the policy objectives of ECLP Policy ENV2 and FNP Policy 2.

Other Matters

19. I understand the appellants' wish to future proof the property by altering it to meet the *Lifetime Homes Standard* and thereby achieve more usable and accessible accommodation through the proposals in that way making sustainable and effective use of housing land, an objective which is encouraged by the Framework in Section 11. However, paragraph 124 in the same section of the Framework states that this should not be at the expense of maintaining an area's prevailing character and setting. Nor does this aspiration to future proof the property remove the obligation to preserve or enhance the character or appearance of the Conservation Area and I am not persuaded that the objectives of improving usability and accessibility could not have been achieved in an alternative way that would have better preserved the Conservation Area. As such, sustainable and effective use of the dwelling would not, of itself, outweigh the harm to the character and appearance of the original dwelling and the Conservation Area as a result of the proposal.

Conditions and Conclusion

20. I have considered the matters before me and, for the reasons given above, I conclude that the appeal should be dismissed in respect of the alterations to construct a raised flat roof to the rear extension and to insert new fenestration but allowed and permission granted in respect of the proposed new southern entrance subject to the conditions set out above.
21. The Council suggested a number of conditions. I have considered these in the light of the advice in the Framework and *Planning Practice Guidance*. A condition requiring development to be carried out in accordance with the submitted plans is necessary in the interest of certainty. However, notwithstanding submitted plans and for the reasons above, the design of the new entrance door should be further controlled to ensure it respects the character and appearance of the conservation area in which it would be clearly visible. Accordingly, a condition is necessary requiring the appellants to submit a detailed design for the door. As this would be an additional condition to those proposed by the Council the parties were consulted on the condition and asked for their views. Both parties have agreed to the additional condition.

P. D. Biggers

INSPECTOR