The Planning Inspectorate

Appeal Decision

Site visit made on 15 December 2022

by P. D. Biggers BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th January 2023

Appeal Ref: APP/Q0505/D/22/3307436
64 Hills Avenue, Cambridge, Cambridgeshire CB1 7XB.

- 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 Yorgo Modis against the decision of Cambridge City Council.
- The application 22/02209/HFUL, dated 10 May 2022, was refused by notice dated 22 July 2022.
- The development proposed is retrospective 'as built' single storey rear and front extensions (Amendment to 20/03606/HFUL).

Decision

1. The appeal is allowed and permission is granted for the erection of single storey rear and front extensions at 64 Hills Avenue, Cambridge, Cambridgeshire CB1 7XB in accordance with the terms of the application 22/02209/HFUL, dated 10 May 2022 and subject to the following condition:

   1) The development hereby permitted shall be carried out in accordance with the following approved plans: SRD/7800/07/20 Sheet 2; SRD/7800/07/20 Sheet 3; SRD/7800/07/20 Sheet 4; SRD/7800/07/20 Sheet 5.

Main Issue

2. The main issue is whether the development would have a detrimental effect on the living conditions of present and future occupiers of No 62 Hills Avenue as a result of proximity and light levels.

Reasons

3. The appeal property, is one of a short terrace of four two storey houses on the south side of Hills Avenue. No 64 is mid terrace and in its pre-existing form had a monopitch roofed porch to the front and a monopitched single storey extension the whole width of the property to the rear.

4. The property benefits from an existing permission (Ref 20/03606/HFUL) for an oak framed forward extension to the front porch and the replacement of the rear extension with a deeper dual pitched roof extension across the full width of the property. The appellant has constructed the porch seemingly in accordance with the permitted plans but rather than removing the monopitch roof element of the existing rear extension as originally proposed, the as built extension now includes both the new dual pitched extension and a monopitch roofed section. The appeal proposal now seeks to regularise that construction.

5. Whilst the neighbouring property No 66 has been extended to the rear to almost the same depth as No 64 and is separated by the pedestrian access way between Nos 64 and 66 and therefore is not adversely affected by the extension, the

relationship to the neighbouring property No 62 is different. This property although having a small garden room extension to the rear on the west side of the house retains the original rear building line closest to No 64. The space immediately to the rear of No 62 is used as the property's patio and patio doors open onto this area from the rear living room and the garden room.

6. The pre-existing, monopitched roof, single storey extension to No 64 dating from 2007 extended out approximately 3.5 metres. Notwithstanding the statement in the Case Officer's report that there is an increase in height between this and the as built extension, looking at the plans (as existing and proposed), the monopitch extension, as now built, would appear to be a similar height to the pre-existing extension. Indeed any increase in height would have been constrained by the first floor windows, the levels of which do not appear to have changed. This element of the extension, now the subject of the appeal, is therefore very little different to that which has been in existence since 2007.

7. The new extension as built extends out about 5.9 metres from the rear elevation of No 62. It has been put to me that this would fail the 45° test in both the horizontal and vertical planes as set out in the *BRE Site Layout for Daylight and Sunlight – A Guide to Good Practice.* In this test 45° lines drawn from the centre of the nearest rear facing window in No 62 (a living room) drawn horizontally and vertically would be breached by the extension indicating that the extension is too large for the proposed position.

8. However, the proposal as already permitted by the Council (ref 20/03606/HFUL) in terms of its depth would also have breached the 45° line in the horizontal plane. It is therefore only a matter of whether the additional height of the monopitch section of roof in combination with the extended depth of the extension would be detrimental.

9. In terms of impact on sunlight, the rear elevation of No 62 faces more or less due south. Given the height and depth of the rear extension as built it is possible that when the sun is low in the south east during the winter there would be some loss of sunlight to the patio and rear window of No 62. However, the maximum depth and height of the new rear extension is little different to that already permitted under 20/03606/HFUL. Therefore, in terms of the potential for impact on sunlight, any additional loss as a result of the as built extension is likely to be minimal. In terms of daylight, whilst I note the occupants of No 62 have noted a change in daylight levels, I have applied the 45° test based on site visit photographs taken to pinpoint the position of the mid-point to the nearest ground floor window of No 62 on the proposed plans. In the vertical plane the highest point of the monopitch section of the extension as built would appear to just touch the 45° degree line drawn vertically from the centre of the ground floor window. Therefore, whilst there may have been an observable reduction in daylight, it would not be unacceptable in terms of the BRE guidance.

10. Turning to the matter of whether the extension would be overbearing, I had the opportunity during the site visit to view the extension as built both from within the living room and garden room and from the patio area of No 62. Whilst I accept that the pre-existing relationship with the shallower monopitch rear extension was less enclosing to No 62's patio, the fact remains that the Council has already granted permission for a 5.9 metre extension along the plot boundary line which would substantially enclose the patio with the brickwork of the side wall to the extension just as the as built extension has done. As built, the extension height closest to the ground floor window of No 62 is little different to that of the pre-existing monopitched extension. The difference in height between the permitted

and as built extensions is stated as 1.4 metres. However this appears to be from the bottom of the eaves line to the top of the monopitch roof. Taken from the height where the roof tiles of the extension as permitted would have started to the top of the monopitch roof as built amounts to only an increase of about 1 metre.

11. Whilst I do not condone the building of the extension in a different way to what was permitted and the abuse of the planning system in doing so, the fact remains that, for the reasons above, the finished result in terms of the impact on living conditions for the occupants of No 62 would not be substantially different to the impact of what has already been permitted by the Council. Although it has been put to me that the height of the new extension's ridge is higher by some 0.3 metres than that originally permitted in 2020, the revised plans do not show this and are reportedly only 0.1 metres higher to the ridge and from my observations on site there was no evidence that this has been exceeded.

12. Accordingly, I am satisfied that, notwithstanding the change in design on the rear extension, the additional impact on the living conditions of the occupants of No 62 as a result of proximity and levels of light would not be unacceptable. Therefore the proposal would not conflict with the *Cambridge Local Plan* (CLP) at Policy 58 which requires that extensions should not result in unacceptable overlooking, overshadowing or visual domination of neighbouring properties.

Other Matters

13. Third parties have also raised concerns over the visual impact of the front porch extension. It has been put to me that it is larger than originally permitted and larger than others in the terrace. Having taken the opportunity of the site visit to look at other examples of front porch extensions in the Avenue whilst it is larger than those in the immediate terrace I am not persuaded that the extension at No 64 is noticeably larger than others in Hills Avenue, for example the porch to No 78. Moreover, it remains subordinate to the front elevation and not unduly intrusive. In any event, the plans for this element of the proposal are no larger than the design which already has permission under application 20/03606/HFUL and the Council has confirmed it has been built in accordance with the approved plans. There is therefore no conflict with the CLP Policies.

Conditions and C**onclusion**

14. I have considered the conditions proposed by the Council which included those relating to timing and development in accordance with plans. As the development is completed and the application is retrospective there is no need for the timing condition. It is however important that a condition requiring development to be carried out in accordance with submitted plans is attached so that, in the event that the completed development is not in accordance with the plans, the Council can take action as appropriate.

15. In reaching my decision I have had regard to the matters before me and, for the reasons above, the appeal in respect of the front and rear extensions is allowed and planning permission is granted retrospectively, subject to the condition above.

P. D. Biggers

INSPECTOR