



Appeal Decision

Site visit made on 7 March 2023

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th March 2023

Appeal Ref: APP/U4610/D/23/3314407

148 Humber Avenue, Coventry, CV1 2AR

- 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 Alain Cohen (Esco Property Ltd) against the decision of Coventry City Council.
 - The application Ref HH/2022/2666 dated 30 September 2022, was refused by notice dated 28 November 2022.
 - The development proposed is installation of a rear dormer window (retrospective).
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Decision

1. The appeal is allowed and planning permission is granted for installation of a rear dormer window (retrospective) at 148 Humber Avenue, Coventry, CV1 2AR in accordance with the terms of the application ref: HH/2022/2666 dated 30 September 2022, subject to the following conditions:
 - 1) The development hereby permitted shall be maintained in complete accordance with the following approved plans: 21 2855/1A (November 2021) – Plans/Rear Elevation as Built.
 - 2) The materials used in the development hereby permitted shall match those of the existing dwelling unless details are submitted to, and approved in writing by, the Local Authority.

Procedural Matters

2. I have utilised the Council's description of the development as per the decision notice as I feel it more concisely describes the development given that the proposal is submitted on a retrospective basis.
3. The Council refer to Section 12 of the National Planning Policy Framework 2019 which is presumed to be a copy and paste error. For the avoidance of doubt, any reference to the framework within this decision letter is made in relation the National Planning Policy Framework 2021.

Main Issues

4. The main issues are the impact of the proposal upon the host dwelling with regard to siting, massing and design and the residential amenity of neighbouring dwellings with regard to visual intrusion.

Reasons

5. The appeal site is a terraced dwelling, located within a predominantly residential area, characterised by two storey terraced houses. The appeal

proposal is submitted on a retrospective basis for a dormer extension on the rear roof slope which is stated, by the Council, not to accord with the General Permitted Development Order 2015 (GDPO) as it does not provide the 0.2 metre set back from the eaves.

6. The Council is noted to have a supplementary planning guidance document (Extending Your Home) (SPG) which states that a dormer should only be placed on a roof slope that is non prominent when viewed from a street, a public footpath or open space... large flat roof dormers, including those that wrap around two roof slopes, will be refused. Flat roof dormers are not accepted by the SPG unless they are an established part of the character of the street scene.
7. The Council's delegated report notes that several units along Humber Avenue, Terry Road and Irving Road have similar rear dormer extensions as part of the permitted development rights. Whilst it is stated that some of the extensions were unlawful, and without planning permission, the Council have not evidenced or differentiated between rear dormer extensions which are lawful, and which are not. Despite this, it is not stated that all of the rear dormer extensions are unlawful and I find that they remain as characteristic of the area within which the appeal site stands. The latter point is acknowledged by the Council.
8. In addition to the above I do not find that the appeal proposal is realistically visible in public views from Irving Road. At the time of my site visit, I went down Irving Road, where the row of dwellings to the north of the appeal site are a terraced row. Standing in Irving Road, I did not find there are views of the appeal proposal and, even standing in Irving Road looking across the rear gardens of the dwellings along Terry Road towards the appeal site, I still find there are no views of the appeal proposal as a result of trees and vegetation obscuring views in that direction, as well as the presence of a large dormer either side of the appeal proposal.
9. I acknowledge that the Council have stated that dormer extensions are present on adjacent roof slopes and that one of these appears to be old enough to be exempt from enforcement action, but the other is a recent addition, which has been referred to enforcement colleagues for further investigation. Despite this, the Council has provided no further explanation or evidence as to which of the adjacent dormers could be liable for enforcement action. Even if one of the dormers adjacent was successfully enforced, I still find that there are no realistic views from Irving Road which would warrant refusal and that such dormers are characteristic of the area. The SPG wording is clear that a dormer should only be placed on a roof slope that is not prominent when viewed from a street.
10. The proposal is sizable and of limited design merit as a flat roof dormer, however, I do not find it would be visible from the public realm and I do not find the proposal would be visually intrusive to the occupiers of nearby houses given that this is a characteristic form of development in the locality. In the event this appeal failed, something similarly constructed within the scope of the GDPO would result in essentially the same in appearance and impacts.
11. As a full application the proposal is stated to be inconsistent with the SPG due to a requirement that it is set 1 metre up from the eaves along the roof slope set in by 0.7 metres from each side. Despite the guidance within the SPG, as

noted by the Council, the GDPO allows householders to enjoy a bigger rear dormer without the need of planning consent. The GDPO has overridden certain aspects of the Council SPG. In this case, a set back from the eave by 0.2 metres would allow the proposal to comply with the GDPO but would realistically still result in a broadly similar proposal with comparable impacts in terms of character and appearance as that which has been built. The fact that most of the dormers in the area do not fulfil the requirements set by the guidance is of limited weight within the determination of this appeal, given that I am considering the proposal upon its own merits.

12. It is stated, by the Council, that there are many examples where linked dormer windows appear on terraced properties and still satisfy the requirements of the SPG. Despite this, no further details are provided allowing me to attribute limited weight to such comments made. The proposal would not result in direct harm to the internal residential amenity of any neighbouring properties and I do not find the proposal would result in harm to the residential amenity of occupiers of neighbouring dwellings. I do not find there would be significant visual intrusion when enjoying private amenity space to the rear of surrounding dwellings. In this case, the absence of the full 0.2 metre set back from the eaves does not result in significant additional visual harm, considering the setting of the appeal site and characteristics surrounding development.
13. The proposal would be contrary to the guidance contained within the SPG, however, for the reasons outlined above, this guidance is inconsistent with GDPO due to it being adopted in 2003 (reviewed in 2005). I acknowledge the proposal does not meet the criteria of the GDPO. The GDPO does, in this case, allow for a significantly larger dormer than that allowed for within the guidance of the SPG. I consider the SPG to be overridden by the GDPO as a fall-back position. The GDPO, as a fall-back position, would require a 0.2 metre set back from the eaves, but in this case, I do not find that this minor deviation from what could be constructed under permitted development, causes such harm that would warrant refusal. The impact would overall be comparable when viewed from neighbouring gardens and it would not result in an incongruous or visually awkward addition to the dwelling.
14. Coventry Local Plan 2016 (LP) Policy DE1, requires that all development proposals must respect and enhance their surroundings and respond to the physical context of the site. I find that the proposal does respond to the physical context of the site and respects the existing built form in the area. As previously outlined, I give great weight to the fact that whilst there may be some policy conflict with LP Policy DE1, in terms of design, a proposal which could be constructed under permitted development, would have essentially the same impacts as that being considered within this appeal. The proposal would be consistent with LP Policy H5, which supports that existing housing stock will be renovated and improved in association with the enhancement of the surrounding residential environment and to meet local housing needs.
15. It is, of course, acknowledged that paragraph 126 of The Framework states that good design is the key aspect of sustainable development but, as stated on several occasions, the ability to construct something broadly similar under permitted development which would have essentially the same impacts to character of the area and the host dwelling as the proposal before me, is of great weight and is a material consideration.

Conditions

16. The Council have suggested standard conditions in their questionnaire which I have applied, however, the proposal before me is retrospective so the standard time condition (commencement within three years) is of no relevance on this occasion. A condition requiring the development to be in accordance with the approved plans is required to control and define the development which is granted consent. A materials condition is required to ensure the proposal matches the host dwelling and that any deviations in materials from existing are approved by the Council to ensure an appropriate finish.

Conclusion

17. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Eleni Randle

INSPECTOR