The Planning Inspectorate

Appeal Decision

Site visit made on 4 May 2023

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date:17 May 2023

Appeal Ref: APP/J1535/D/23/3318412

3 Linkside, Chigwell, Essex IG7 5DN

- 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 & Mrs P Kyprianou against the decision of Epping Forest District Council.
- The application Ref: EPF/2640/22 dated 18 November 2022, was refused by notice dated 23 February 2023.
- The development proposed is single-storey (rear/side/front) extensions, roof alterations with rear box dormer inc. Juliet balcony, and a further Juliet balcony at first floor level.

Decision

1. The appeal is allowed and planning permission is granted for single-storey (rear/side/front) extensions, roof alterations with rear box dormer inc. Juliet balcony, and a further Juliet balcony at first floor level at 3 Linkside, Chigwell, Essex IG7 5DN in accordance with the terms of the application, Ref: EPF/2640/22 dated 18 November 2022, and the plans submitted with it 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 be carried out in accordance with the following approved plans, Location plan and R04 Rev A.

   3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those of the existing building unless specified on the approved plans.

   4) The development hereby permitted shall not be occupied until any new windows on the side elevation at first floor level and above have been fitted with obscured glazing, and no part of the window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

   5) The roof area of the single storey rear extensions hereby permitted shall not be used as a balcony, roof garden or similar amenity area.

Application for costs

2. An application for costs was made by Mr & Mrs P Kyprianou against the decision of Epping Forest District Council. This application is the subject of a separate Decision.

Procedural Matters

3. Since the submission of the appeal the Council have adopted the Epping Forest District Local Plan 2011-2033 (2023) (the Local Plan), which replaces the Epping Forest District Local Plan (1998 and alterations 2006). In relation to this appeal Policy DM9 of the Local Plan is relevant and was referred to in the reasons for refusal. Policy DM9 has not been modified between the Local Plan Submission Version (2017 as modified) and the recently adopted Local Plan. Therefore, no party has been prejudiced or caused any injustice by me proceeding with the appeal in light of the changes in policy.

4. The Appellant has confirmed that amended plans were considered by the Council prior to the determination of the planning application which included removal of a basement and first floor rear extension. I have therefore considered this appeal on the basis of the plans submitted: Location Plan, R02 Rev A and R04 Rev A.

Main Issues

3. The main issues are the effect of the development on (i) the character and appearance of the host property and area in general; (ii) the living conditions of existing and future occupiers of the appeal site; and (iii) the living conditions of occupiers of No's 2 & 4 Linkside & 101 Hainault Road in terms of overlooking.

Reasons

Character and Appearance

6. The appeal site is a detached property with a modest rear garden within a predominantly residential area. Property designs vary within the immediate area, however there is a harmony to the detailing of the properties within the cul-de-sac. A modern apartment block lies opposite the appeal site.

7. The appeal site has a flat roof two storey side extension which is at odds with the design of the property and area in general. The proposed development would integrate the extension into the property and area sympathetically.

8. There is a commonality in terms of roof design to the detached properties within the immediate area, notwithstanding this the hip to gable alterations would not be incongruous to the streetscene, given the design of No. 2 Linkside, adjacent the appeal site, which has a gable roof design.

9. The rear dormer whilst large would not be dominant. Whilst the single storey rear extensions are unusual in shape views of these would be limited given the existing boundary treatment, orientation of the property and the design of the extensions.

10. The extensions to the front and side are subservient in terms of design and scale to the existing property. Whilst extensive alterations and extensions are proposed, the development would not be out of keeping with the surrounding area.

11. The Council have issued a certificate of lawful development for a hip to gable roof conversion, single storey rear extension and single storey side at the appeal site[1]. Whilst the works proposed are simpler and more conventional in terms of design nonetheless the fallback position is given significant weight.

12. I find that the proposed development would not harm the character and appearance of the host property and area in general.

13. There is no conflict with Policy DM9 of the Local Plan which amongst other things seeks to ensure development responds positively to the locality and respects the original building.

14. The proposed development would not be contrary to the National Planning Policy Framework (2021) (the Framework) which seeks to secure good design which adds to the overall quality of an area.

Living Conditions Occupiers of the Appeal Site

15. The Council contend in reason for refusal No. 2 that the proposed development would result in a material loss of useable amenity space for the occupiers of the property. The proposed development would reduce the amount of external amenity space; however I have not been provided with substantive evidence or rational in terms of the Planning Committee minutes to demonstrate that there is a development plan policy or Council guidelines confirming what an adequate amount of amenity space would be for a property this size.

16. Notwithstanding this a certificate of lawfulness confirms that development can occur which would reduce the current level of amenity space. I also note that alternative schemes could be proposed under permitted development rights via a similar route which could reduce the amenity space. I give the fallback position significant weight.

17. I find that there would be no harm to the living conditions of existing or future occupiers of the appeal property. There is no conflict with Policy DM9 of the Local Plan which amongst other things seeks to protect the amenity of occupiers of properties.

18. There is no conflict with the Framework which seeks to ensure developments have high standards of amenity for existing and future users.

Living Conditions Neighbours

19. The orientated on the appeal property and plot is such that the proposed development does not have any windows which have the capability to overlook No. 2 Linkside, with the exception of a small ground floor window in the side elevation serving the living room. However due to its location, distance from the neighbouring property and boundary treatment this would not warrant a refusal.

20. Due to the set back of No. 4 Linkside overlooking would be limited. Notwithstanding this a new window in the side elevation of the main property has the potential to overlook No. 4. Obscure glazing would mitigate this which can be controlled by a suitable worded planning condition.

[1] Application Reference: EPF/2944/21 CLD

21. In terms of the potential effect on No. 101 Hainault Avenue the proposed development would not exacerbate the current level of overlooking. The fallback position detailing extensions including a large dormer would be little different to the proposed development in terms of overlooking. I give this significant weight.

22. I find that there would be no harm to the living conditions of occupiers of No's 2 & 4 Linkside & 101 Hainault Road in terms of overlooking. There is no conflict with Policy DM9 of the Local Plan which amongst other things seeks to protect the amenity of occupiers of neighbouring properties.

23. There is also no conflict with the Framework which seeks to ensure developments have high standards of amenity for existing and future users.

Conclusion and Conditions

24. For the above reasons I conclude that this appeal should be allowed.

25. I have attached the standard time limit condition and a plans condition as this provides certainty. I have also added a condition concerning materials to ensure a satisfactory appearance.

26. In the interest of privacy, I have imposed a condition relating to obscure glazing and fixing closed any new window on the side elevation of the proposed development. Similarly in the interest of privacy I have attached a condition restricting the use of the roof area of the single storey rear extensions.

27. The Council have suggested conditions relating to providing details of the green roof proposed above the rear single storey extensions including maintenance, wheel washing facilities during construction, and restrictions on deliveries and working hours during construction. I have not been provided with substantive evidence to demonstrate that these conditions are necessary or reasonable.

C Pipe

INSPECTOR