



Appeal Decision

Site visit made on 9 May 2023

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 31 May 2023

Appeal Ref: APP/D1590/W/22/3306254

43A Broadway, Leigh-on-Sea, SS9 1PA

- 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 Natural Edge against the decision of Southend-on-Sea City Council.
 - The application Ref 22/00289/FUL, dated 14 February 2022, was refused by notice dated 7 April 2022.
 - The development proposed is erect first floor rear extension, install dormer to rear to form habitable accommodation in loft space.
-

Decision

1. The appeal is allowed and planning permission is granted for first floor rear extension, install dormer to rear to form habitable accommodation in loft space at 43A Broadway, Leigh-on-Sea, SS9 1PA in accordance with the terms of the application, Ref 22/00289/FUL, dated 14 February 2022, 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 shall be carried out in accordance with the approved plans: 1605 010 Revision B and 1605 011 Revision D.
 - 3) The materials used on the external surfaces of the development hereby approved must match those used on the external surfaces of the existing property.
 - 4) Prior to the first use or occupation of the development hereby permitted, the proposed windows in the side elevations of the development shall only be glazed (in the case of multiple or double-glazed units at least one layer of glass in the relevant units) in obscure glass, to at least Level 4 on the Pilkington Levels of Privacy, and fixed shut, except for any top hung fan light which shall be a minimum of 1.7 metres above internal finished floor level and retained as such thereafter.

Main issues

2. The main issues in this case are: i) the effect of the proposed dormer extension on the style and character of the host building and the wider townscape, particularly with reference to the Leigh Cliff Conservation Area; and ii) the adequacy of the second-floor bedroom with regard to the living conditions of future occupiers taking account of the lack of a window serving the room.

Reasons

3. The application property is a one-bedroom flat above a commercial unit within the Leigh Cliff Conservation Area. The application site is located on the northern side of the Broadway, in the section between West Street and East Street, and is occupied by a mid-terraced, two-storey building. The ground floor is currently occupied by a retail shop. The flat is accessed by an external staircase at the rear of the premises. The setting to the application site is referred to in the Leigh Cliff Conservation Area Appraisal, at page 95, as a row of buildings all in the same style, though exhibiting quite a lot of variety mainly because of later alterations. They are identified as making a positive contribution to the Conservation Area.
4. The area has a town centre character, being part of the Primary Shopping Frontage of Leigh Broadway District Centre, with many properties being occupied for commercial purposes at ground floor level, with residential uses above. To the rear of the properties on Broadway is a residential area. The proposed development is at the rear of the Broadway frontage and is almost fully hidden from any public view.

The effect of the proposed dormer extension on the style and character of the host building and the wider townscape, particularly with reference to the Leigh Cliff Conservation Area

5. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention should be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. In accordance with this, Policy DM5 of the council's Development Management Document echoes that statutory duty.
6. In addition, policies of the local development plan and guidance seek to ensure that new development is well designed, as does the National Planning Policy Framework (the Framework). The latter makes clear that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. I consider that the most relevant development plan policies are Core Strategy (2007): Policies CP4 (Environment and Urban Renaissance) and Development Management Document (2015): Policies DM1 (Design Quality), DM3 (The Efficient and Effective Use of Land), and DM5 (Southend-on-Sea's Historic Environment). In addition, the Design & Townscape Guide (2009) is also relevant.
7. As far as the last of these are concerned, under the heading of 'Roof Extensions and Dormer Windows' the Guide states "*Proposals for additional roof accommodation within existing properties must respect the style, scale and form of the existing roof design and the character of the wider townscape.*"
8. To the rear of this row of buildings there is a real hotch-potch of stairways, flat roofs, rear extensions and roof extensions. The immediately adjoining building, No.45 Broadway, has a large flat roofed dormer that occupies almost the whole of the rear roof slope. In contrast, the dormer window proposed in the rear roof slope of the appeal property, which I understand is reduced in size from a previous application, would be set well down from the main ridge, at a similar height to the ridge of the outrigger. It would be located above the roof of the outrigger only, and not extend to the party wall with No.41.

9. I consider that the dormer would appear incidental to the scale of the main roof. The officer's report refers to the extent of solid vertical glazed surfaces, but the appeal proposal has very limited glazing in the dormer, which would not be disproportionate. As such, whilst it could not be said to enhance the character and appearance of the conservation area, it would preserve that character and appearance since it would do no material harm.

The adequacy of the second-floor bedroom with regard to the living conditions of future occupiers taking account of the lack of a window serving the room

10. With regard to the amenity of future occupiers, as the plans submitted with the application showed, the second-floor bedroom to be created in the roof space would have no outlook. I consider that this would be unacceptable in terms of the living conditions of future occupants, and would conflict with policy.
11. As part of the appeal, the appellant's agent has explained that the omission of a window to the second-floor bedroom was an error in the drafting of the submitted plans, and a copy of the application plan showing the proposal has been submitted with the necessary amendment. The council notes that the insertion of the window to bedroom would provide some daylight and sunlight and offer a limited outlook, but it is unable to make a reasoned assessment as to whether the appellant's submission would be acceptable, and the proposed amendment has not been subject to any neighbour or statutory consultation.
12. Before dealing with the council's second point, I have assessed the revised plan, drawing No.1605-011-D, which satisfies me that the proposed window would alleviate the situation to the extent that this matter would no longer provide a reason for refusal. But the question of neighbour and statutory consultation is a serious consideration.
13. The proposed window would be situated in the slope of main rear roof of the appeal building, and would join a number of other windows, mostly larger, that are in the rear elevation. Therefore, I cannot see that there would be any ill effect on the living conditions of neighbours and, in view of the limited scale of this window and its position, I cannot see that it would be material to statutory consultees. Thus, I have decided that I can take account of the drawing mentioned above and rely on it in reaching my decision on the appeal.

Conclusions

14. With regard to the proposed dormer window, at paragraph 9 above I have concluded that it would appear incidental to the scale of the main roof, and whilst it could not be said to enhance the character and appearance of the conservation area, it would preserve that character and appearance since it would do no material harm.
15. In respect of the second issue, taking account of the revised drawing, correcting an omission on the application plan, I consider the proposed window now shown overcomes the council's criticism. Furthermore, for the reasons that I have given, I am satisfied that no person or body would be prejudiced by the acceptance of the revised drawing, and that it is reasonable for me to take it into account.
16. Since both issues have been resolved to my satisfaction, and the proposal would not be contrary to policy, I will allow the appeal.

Conditions

17. The statutory condition that provides a time limit on the start of development must be imposed. In addition, 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; condition 4 is to protect the amenities and ensure no loss of privacy to neighbouring occupiers.

Terrence Kemmann-Lane

INSPECTOR