



Appeal Decision

Site visit made on 15 June 2023

by K Winnard LL.B Hons Solicitor

an Inspector appointed by the Secretary of State

Decision date: 25 August 2023

Appeal Ref: APP/J1535/D/23/3312720

35 Forest Road Loughton IG10 1EE

- 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 Mitchell Webb against the decision of Epping Forest District Council.
 - The application Ref. EPF/1254/22, dated 10 June 2022, was refused by notice dated 14 September 2022.
 - The development proposed is the resubmission of application EPF/0702/21 for a two storey side extension, single storey rear extension and alterations to existing elevations.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's reasons for refusal include reference to Policies CP2, DBE2, DBE9 and DBE10 of the Local Plan and Alterations 1998 and 2006. Following the decision on the application and since submission of the appeal, the Council has adopted the Epping Forest District Local Plan 2011-2033 (2023) (the Local Plan). Nonetheless policies of the Local Plan, then emerging, were considered in the determination of the application EPF/1254/22 and the appellant has had the opportunity to address the changing policy context within the appeal documentation. As such it has not been necessary for me to seek further comments in this appeal. I must determine the appeal in accordance with the Development Plan in place at the present time. Accordingly, I have not considered the proposal against the policies set out in the Local Plan and Alterations 1998 and 2006. Of the Local Plan policies quoted to me, Policy DM9 is now the principal development plan policy relevant to this appeal.

Main Issues

3. The main issues in the appeal are the effect of the proposed development on (i) the character and appearance of the host dwelling and the area and (ii) the living conditions of the occupiers of the neighbouring dwellings, Nos 33 and 37 Forest Road.

Reasons

Character and Appearance

4. The appeal property, No 35 Forest Road (No 35) is the end terraced dwelling of a row of three cottages set back from Forest Road and sited on an triangular shaped plot which curves to the rear. At its side and front is a paved area of open space presently used for vehicle parking. Adjacent to the paved area to the side of No 35, is the flank elevation of the neighbouring property, No 33 Forest Road (No 33) which lies further forward and at an angle to the appeal property. To the rear of No 35 the boundary becomes irregular such that it tapers towards No 37, the middle terraced property. Forest Road itself has a variety of residential development along its length consisting of detached, semi-detached and terraced development of different ages and styles. The row of terraced cottages with a mellow brick elevation form a pleasing frontage which make a positive contribution to the streetscene.
5. There is an extensive planning history to the appeal property which has been the subject of several refusals of planning permission including one appeal decision¹. In addition planning consents were granted in 2001 and 2006 for part two storey/part single storey side extensions. The present proposal has been amended from a previous scheme² refused by the Council in with a view to overcoming the concerns which have been raised as a result of that application.
6. The current proposal would allow for the creation of an upstairs bathroom, new stairs and a larger ground floor rear extension. Although the proposal has a set back at first floor level and is set down from the main ridge, the ground floor front elevation would sit flush with the main front elevation of the cottage and would be almost as wide as its existing width. The combination of the increased size at 2 storey height, alignment and width would lead to the front elevation facing Forest Road being considerably larger than at present and closer to the flank elevation of No 33. Nor would the proposed fenestration and door reflect the understated nature of what is a modest dwelling. The cumulative effect would be an extension which would fail to harmonise with the appeal dwelling, the row of terraces as a whole and would appear out of keeping with the street scene.
7. Whilst the scheme would incorporate some features designed to achieve subservience and the plot size allows for the provision of a side extension, these would not produce sufficient mitigation to overcome the harmful effect of the development now proposed. I do not share the appellant's criticisms of the Council in relation to their assessment of subservience. Whilst in itself an extension of this width might be regarded as modest, the extension has to be read in the context of the size of the original dwelling. In this instance the extension would almost double the width of the existing dwelling and would look excessive in relation to the built form of the host property. For the reasons set out above, the extension would not be truly read as a subordinate addition.
8. As the appeal property is sited on an irregular tapering plot the increase in massing, both at the side and the rear, where it would be close to the neighbouring attached property, would appear cramped. I accept that the rear extension would not be readily viewed from Forest Road and that large rear extensions are permitted under permitted development rights. However, neither a rear nor side extension constructed under such rights would be as substantial as the proposal now before me. As such the current proposal would

¹ APP/J1535/D/18/3212858

² EPF/0702/21

represent overdevelopment further eroding the character and appearance of the host dwelling, and the area.

9. My attention is specifically drawn to an extension at No 41 Forest Road, but in this instance the extension reads as a subordinate addition to what is, a semi detached dwelling due to the extent of its set backs and flat roof. As such, it does not offer support to the acceptability of the appeal scheme which would be more visually intrusive. The appellant also refers to the degree of change to Forest Road over recent years and has drawn my attention to a number of other developments approved by the Council. I noted these extensions on my site visit, however I am not aware of the full circumstances of these cases. From the information before me they do not represent direct parallels to the appeal scheme. Notwithstanding that they are on the same street, the pattern of development on Forest Road is such that plot sizes and site characteristics differ. On the whole those developments which provided for a side extension are generally well set back and do not dominate the host dwelling. Others relate to alterations in the roof form. In the one instance where the front elevation of an extension is not set back this relates to the conversion of one dwelling to two dwellings and is set on a regular sized plot. I understand the frustration of the appellant in witnessing these other extensions and alterations being erected nearby. However, for the reasons stated, they do not alter my conclusions with regard to the appeal proposal which I have necessarily considered on its own merits.
10. Accordingly the proposal would cause unacceptable harm to the character and appearance of the host dwelling and the area. As such it would conflict with Policy DM9 of the Local Plan which requires development amongst other things to relate positively to its locality and for extensions to respect the form and setting of the original building. It would also be in conflict with the National Planning Policy Framework (the Framework) which seeks to promote development sympathetic to local character.

Living Conditions

11. The proposed side extension would introduce built development in the form of a part two storey side extension, set alongside the side boundary with No 33. Whilst this would be reduced in depth towards the rear, the two storey element, which would include an overhang to the rear, would nonetheless extend for a significant length above the side of the boundary fence with No 33 partly enclosing the modest patio area to the rear of No 33 to the extent it would have an overbearing effect on the outlook for the occupiers of No 33. In respect of the rear extension, I note that the Council does not express concern in relation to the amenities of the occupiers of No 33. Having regard to the separation distances between No 33 and the rear garden of No 35 where the extension would be sited and its height, I would agree with this assessment.
12. A daylight and sunlight assessment has been submitted and I note that the Council does not refer to a loss of daylight and sunlight within the reasons for refusal. Although I acknowledge that the proposal does not impact significantly in this regard this factor in itself does not weigh in the proposal's favour. Rather the harmful effect in this instance is caused by the increase in mass of built development close to the common boundary.
13. To the rear of the appeal property, the rear projections at Nos 35 and 37 and tapered boundary have the effect of creating a "tunnel" between the side wall

of No 35 and the rear projection at No 37. The increased depth of the proposed rear extension would present a further expanse of brick wall in close proximity to No 37 and at a point where the present outlook becomes open. The increased sense of enclosure would be to the detriment of the outlook of the occupiers of No 37. Notwithstanding the permitted development allowances for larger rear extensions and the relatively small increase in the depth of the rear extension, my observations on site as set out above, lead me to the view that the increase in depth in this instance compared to the existing extension would cause an overbearing impact and sense of enclosure to the occupiers of No 37.

14. On this basis, the development would fail to comply with Policy DM9 of the Local Plan which seeks to secure development with high standards of amenity and to not result in an overbearing form of development which materially impacts on the outlook of occupiers of neighbouring properties. It would also fail to comply with the Framework which seeks to protect the amenity of the occupiers of adjacent properties.

Other Matters

15. I acknowledge that the dwelling has had planning consents for a two storey side extension in 2001 and 2006. Those consents were granted in excess of 15 years ago and have now lapsed. The scheme which is the subject of the appeal is materially different in that it proposes a full two storey side extension. Looking at the previous consents the side extension as approved was part two storey only, the bulk of which did not engulf the host property nor impact on the amenities of the occupiers of No 33. As such I place limited weight on these consents within the determination of this appeal.
16. I have been provided with information indicating the personal health circumstances of the appellant and I note that he is registered disabled. In exercising my functions on behalf of a public authority I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010 which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic (in this case disability) and people who do not share it. This duty does not compel a particular outcome however and due regard is the regard which is appropriate in consideration of the circumstances of the particular case. Since there is the potential for my decision to affect the living conditions of a person with a protected characteristic I have had due regard to the three equality principles set out in section 149 of the Act.
17. I have given the appellant's personal health circumstances, as set out, careful consideration. I acknowledge that the proposal has been designed to provide an easily accessible first floor bathroom. On my site visit I saw for myself the walk required from the first floor bedroom to the existing ground floor bathroom. The side extension as designed would suit the health needs of the appellant more than the existing layout. I appreciate that there have been several refusals of planning permissions for previous schemes and I am sympathetic to the difficulties posed by the existing layout. However on the information before me, I am not persuaded that this scheme is now the only suitable design to achieve accessible bathroom facilities. Whilst no specific floor space requirements are before me, I note that the Council has not previously raised concerns as to use of the roof space and the conclusion of the Inspector

in the previous appeal scheme in relation to a smaller side extension. It is unclear to what extent such designs have been explored in conjunction with other options such as a reconfiguration of the internal layout. Accordingly these circumstances therefore only carry moderate weight in favour of the proposal and do not outweigh the harm and adverse impacts as identified above, that this proposal would result in.

Conclusion

18. I have had regard to the appellant's personal circumstances and the impact of them on my decision. Taken along with the other considerations put forward by the appellant, the PSED considerations would not outweigh the harm that the proposal would cause to the character and appearance of the host dwelling and the area and to the living conditions of the occupiers of neighbouring dwellings, and the conflict with the development plan in these regards. Therefore having regard to all other matters raised, I dismiss the appeal.

K Winnard

INSPECTOR