



Appeal Decision

Site visit made on 17 August 2023

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2023

Appeal Ref: APP/D1590/D/23/3323206

60 Poynings Avenue, Southend-on-Sea, SS2 4RU

- 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 Marc Waldron against the decision of Southend-on-Sea City Council.
 - The application Ref 23/00436/FULH, dated 13 March 2023, was refused by notice dated 5 May 2023.
 - The development proposed is hip to gable roof extension, install dormer to rear with Juliet balcony to form habitable accommodation in the loftspace, erect single storey rear extension (part retrospective)
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application form described the proposed development as "Single storey rear extension, loft conversion including rear dormer and insertion of roof lights into front elevation". The council changed this to the description used in the heading above, which was also used on the appeal form. I have adopted it as it more clearly identifies the development proposed.
3. The works are mostly complete, and therefore the proposal is in part retrospective.

Main Issues

4. The main issues in this case are: i) the effect of the proposed development on the character and appearance of the property, the streetscene and the area more widely; and ii) the effect of the proposed dormer and single storey extension on the outlook, sense of enclosure and living conditions of neighbouring occupiers at Nos 58 and 62 Poynings Avenue.

Reasons

5. The appeal dwelling is a semi-detached bungalow sited within a residential area. The surroundings include a variety of dwellings: two-storey, chalets and bungalows of varying scale, form and design. Most dwellings have a traditional hipped roof but gabled roofs are found in the wider locality.

The effect of the proposed development on the character and appearance of the property, the streetscene and the area more widely

6. No objection in principle is raised by the council to a hip to gable roof enlargement, and nor are the rooflights in the front elevation controversial. However, the appeal site is close to the junction with Arlington Road, being separated by a single plot (No.62), and views of the rear of the appeal dwelling are in the public domain. For that reason, the rear dormer would be conspicuous from that road. The rear ground floor extension is evident to a degree, and is likely to continue to be so with a reduced height.
7. In respect of this issue, it is the rear dormer, being entirely in view from the public domain, that is the main element of concern. The dormer has a limited set down from the roof ridge at 0.15m and occupies almost the entirety of the width of the rear roof slope, with the façade of the dormer rising immediately above the original line of the rear wall of the bungalow. The result is that the dormer is visually dominant, lacks any sense of being subordinate to the original bungalow, and so has a harmful effect on the character and appearance of the property, and the streetscene.
8. On behalf of the appellant, I am provided with diagrams and calculations of the volume of the hip to gable conversion and rear dormer. These purport to show that these elements of the proposal meet the requirements of Class B – additions etc to the roof of a dwellinghouse, of the Town and Country Planning (General Permitted Development) (England) Order 2015. As the planning officer's report notes, there has been no application for a certificate of lawfulness, and it is not my role in dealing solely with an application for planning permission, to determine whether an operation is lawful in order to decide whether the appellant might be able to rely on permitted development (PD) rights as a fallback. Nevertheless, from the information provided it would appear that there is a fallback, so far as the roof alterations are concerned, and in the circumstances of this case, it seems to me that there would be a real prospect of the exercise of this PD right.
9. Since the roof alterations are the principal concern in respect of the effect on character and appearance, in view of this fallback position, I am disinclined to dismiss the appeal on this first issue.

The effect of the proposed dormer and single storey extension on the outlook, sense of enclosure and living conditions of neighbouring occupiers at Nos 58 and 62 Poynings Avenue

10. I can deal briefly with the effect of the dormer in respect of neighbouring living conditions, by stating that I do not consider that it would be overly dominant and oppressive, resulting in a significantly harmful loss of outlook or an unacceptable sense of enclosure. And in respect of the 'Juliet balcony', I consider that this would cause no more overlooking or loss of privacy than a normal first-floor window, serving a bedroom. It would be different if the proposal was to use the roof of the rear extension as a balcony; but the Juliet is effectively a balcony in name only.
11. However, taking account of the intention to reduce its height, the rear extension is of significant size and scale, such that it would appear both significantly out of keeping with the size and scale of the bungalow and would impact on the attached neighbour to the west, No.58 Poynings Avenue. This

bungalow has not been extended to the rear, and appears to have rear windows serving a habitable room as the only source of light and outlook. A window in No.58 is situated close to the shared boundary with the application site. I am supported in these assumptions by the fact that the plans of the existing ground floor of the appeal dwelling, whilst handed, tend to confirm this.

12. I therefore have come to the view that the rear extension by reason of its position abutting the shared boundary and its excessive depth would appear as an overly dominant and oppressive addition, resulting in a material loss of outlook and an unacceptable sense of enclosure to the significant detriment of the living conditions of the neighbouring occupiers at No.58.
13. The same considerations do not apply to the detached neighbour which is orientated differently, and I have no information of the details of the accommodation. Nevertheless, the extension would be at least somewhat intrusive in the view from the garden.
14. For the appellant, reference is made to the PD rights for 'larger single-storey extensions'. These, extending beyond the rear of the original house by more than 3 metres and less than 6 metres in the case of a house that is not detached, are subject to a neighbour consultation scheme to assess the impact of the proposed development on the amenity of their property. The requirements of the neighbour consultation scheme are set out in paragraph A.4 of Class A.
15. Paragraph A.4 specifies that householders wishing to build a larger extension have to notify the local planning authority about the proposed extension and the local planning authority must give adjoining neighbours notice of the proposals and the opportunity to object. Works cannot commence until the local planning authority notifies the householder that no prior approval is required, or gives prior approval, or 42 days have passed without any decision by the local planning authority.
16. With the roof of the rear extension as constructed lowered to that of the existing eaves, and 2.95m above ground level, the height would be within normal PD limits, and the length of the extension would be 4.35m, which comes within the 6m limit for a semi-detached dwelling for a larger extension.
17. It is suggested that the appellant has subsequently consulted adjoining neighbours and states that he has received confirmation verbally that their principal concerns surrounded the loft conversion, specifically the thought that the extension roof may be used as a form of balcony, have been met. The appellant alleviated these concerns by confirming that there would only be a Juliet balcony and no access would be available to the roof area, which could be conditioned on any planning permission.
18. There are objections to this approach: i) an assurance of verbal acquiescence is not satisfactory; ii) the statement goes against what has been submitted in writing to the council that neighbours do object, although 1 neighbour finds the appellant's assurances are satisfactory; iii) it is the local planning authority, on application by the householder, that should undertake the consultation, and then make a decision, taking account of the responses received.

19. It is also suggested by the appellant that, in the event of the appeal failing, the extension could be reduced to a depth of 3m (and with the height of roof reduction) the development would be within PD rights and there would be no further need to consult the council, but that reduction to 3m would not be of significant benefit to the neighbours. However, it is my judgement that a reduction of 1.35m would materially lessen the impact of the extension, particularly on the attached neighbour.

Conclusions

20. As I have found at paragraphs 8 and 9, there would be a real prospect of the appellant relying on PD rights with regard to the roof and dormer in the event of the appeal failing. Since the roof alterations are the principal concern in respect of the effect of on character and appearance, I am disinclined to dismiss the appeal on that first issue.
21. The proposed rear extension is of significant size and scale and is materially greater in depth than an extension which can be constructed on a semi-detached dwelling as PD. The PD rights for 'larger extensions' cannot be relied upon for the reasons that I have dealt with in paragraph 18 above, particularly item iii).
22. The amended proposed rear extension would remain of significant size and scale, taking account of the intention to reduce its height, such that it would appear both significantly out of keeping with the size and scale of the bungalow and would impact on the attached neighbour to the west, No.58 Poynings Avenue, as I have observed in paragraphs 11 and 12.
23. If the appellant choses to reduce the depth of the extension to that permitted without neighbour consultation, I consider that the effect would still be deleterious to No.58, although obviously lessened, but that is not the proposal before me.
24. For the reasons I have given, the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR