



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/23/3322204
530 Arterial Road, Leigh-on-Sea, SS9 4DT

- 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 Mike Peach against the decision of Southend-on-Sea City Council.
 - The application Ref 23/00157/FULH, dated 30 January 2023, was refused by notice dated 27 March 2023.
 - The development proposed is erect first floor rear extension, alter elevations (retrospective).
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Decision

1. The appeal is allowed and planning permission is granted for the erection of first floor rear extension, alter elevations (retrospective) at 530 Arterial Road, Leigh-on-Sea, SS9 4DT in accordance with the terms of the application, Ref 23/00157/FULH, dated 30 January 2023, subject to the following conditions:
 - 1) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 2) The development hereby permitted shall be carried out in accordance with the approved plans, titled 'First Floor Extension at 530 Arterial Road, Leigh-on-Sea, Essex' and dated September 2021.

Application for costs

2. An application for costs was made by Mr Mike Peach against Southend-on-Sea City Council. This application is the subject of a separate Decision.

Preliminary matters

3. The application form described the proposed development as "Retrospective two storey, rear extension". 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.

Main Issue

4. The main issue in this case is the effect of the first floor rear extension on the character and appearance of the existing dwelling and the wider area.

Reasons

5. The appeal site, No.530, contains a two-storey semi-detached house on the southern side of the A127 Southend Arterial Road, similar to the attached neighbour at No. 528 which has a similar architectural style and materials. Along the west boundary, and alongside the appeal development, is high evergreen hedging that adjoins the rear garden of No.6 The Gables: The Gables is a cul-de-sac connected to Eastwood Old Road, at the rear of the site.
6. The rear of the appeal site has been subdivided and a chalet style dwelling has been constructed, now known as 261 Eastwood Old Road. The presence of this dwelling, and similar developments to the east limit views of the application site to the rear. The rear garden of the attached dwelling, has outbuildings alongside the appeal extension. The high evergreen hedging, restricts views into the site from the west. Whilst there is open landscape further to the south and west, the application site is not read within a rural context and is characteristic of an urban area. The immediate vicinity is dominated by the presence of the Southend Arterial Road.
7. The appeal extension is hip roofed and measures some 4.1m deep, 5.3m wide and 7.5m in maximum height (when measured from ground level). The submission of the appeal application followed an enforcement investigation for failure to build the previously approved development (18/02173/FULH) in accordance with the approved plans. That permission was for a first-floor rear extension 3.5m deep, 5.3m wide, and 8.15m in maximum height and. Thus, dimensionally, the appeal development is 0.65m lower than that permitted, but extends back 0.6m further than that permitted.
8. The main issue that I have identified above stems from the single refusal reason. To understand the reasoning that led to that refusal, one must look to the officer's report. I briefly refer to the relevant part of that report. The officer found that "... the development, by reason of its *excessive depth* (emphasis added) and resultant scale and bulk, appears as a dominant and disproportionate addition that is significantly out of keeping with and harmful to the character and appearance of the existing dwelling and the wider area".
9. Here the officer is contrasting the development as carried out with the permission given under reference 18/02173, that was commenced, although not fully conforming with the permitted detail. The true test of acceptability is to see to what extent the current appeal development has diverted from that permission, since the council found the earlier scheme acceptable, and to what extent harm thereby arises.
10. I note that the resultant bulk and scale referred to is only as a result of the excessive depth: there is no other aspect of the proposal that the officer points to with regard to additional bulk and scale. That 'excessive' depth amounts to 0.6m (see paragraph 6 above) on an approved depth of 3.5m. This must also be seen in the context of a reduction of height from 8.15m to 7.5m, which the officer appears not to have taken into account in concluding that "*scale and bulk, appears as a dominant and disproportionate addition*".
11. At the same time, under the heading 'Amenity impacts' the officer concluded that "*The extension has a dominant effect on the rear garden setting of No.528, however, noting the scale and position of No.528's extension and the depth of the rear garden it is considered that any resultant sense of enclosure*

does not reach a significantly harmful degree to justify a refusal reason on direct residential amenity impacts alone". Thus it would seem that the degree of dominance, as far as the neighbour at No.528 is concerned, does not amount to a defect warranting refusal of permission, because of the development at the rear of that neighbour's house. I see no reason to disagree with that assessment

12. In respect of the possible dominance on the other neighbour, to the west, there can only be a limited effect due to the high evergreen hedge that exists within the curtilage of that dwelling. It is true that the extension can be seen from the rear of that house, but its apparent mass and dominance, when looked at end on, due to an extra 0.6m, would hardly be noticeable.
13. From what I saw at my site visit I am satisfied that the first floor rear extension does not have a harmful effect on the character and appearance of the existing dwelling or the wider area.

Other matters

14. There are small differences in matters of fenestration in the appeal scheme compared to the previously approved scheme, but these are not referenced in the refusal reason, and were not material to the decision to refuse planning permission.
15. I have taken account of all other matters. In respect of amenity impacts, the officers report concluded that *"...the design, size, siting and scale of the development are such that it would not result in any significant harm to the amenities of the site, neighbouring occupiers or wider area in any relevant regards. The proposal is therefore considered to be acceptable and policy compliant in terms of its amenity impacts"*. I have no reason to disagree with this conclusion.
16. There is an objection from a neighbour that the extension has caused damage to her property, but that is a civil matter and not for me.

Conclusions

17. I have found that the first floor rear extension does not have a harmful effect on the character and appearance of the existing dwelling or the wider area. Therefore I will allow the appeal.

Conditions

18. 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). These are i) the standard condition placing a time limit on the start of development; ii) that the materials to be used in the construction of the external surfaces of the development shall match those used in the existing building; and iii) the development shall be carried out in accordance with the approved plans.
19. The first condition is unnecessary and inappropriate since the application is retrospective and thus the development has already begun. The other 2 suggested conditions are necessary to ensure that the appearance of the development permitted integrates with the existing in a visually satisfactory

manner and for certainty and avoidance of doubt as to the development permitted. I will therefore impose them.

Terrence Kemmann-Lane

INSPECTOR