



Appeal Decision

Site visit made on 6 February 2024

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2024

Appeal Ref: APP/X1355/D/23/3333388

Fairways, Road Around The Green, Ovington, Durham DL11 7BW

- 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 Ian Guest against the decision of Durham County Council.
- The application Ref DM/23/00186/FPA, dated 24 January 2023, was refused by notice dated 21 September 2023.
- The development proposed is Installation of Fire Escape to Rear of Property.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission was approved in September 2019¹ for an extension over an existing attached garage at the appeal property. A second application was subsequently approved in November 2022² for a revised scheme of extension which was itself subject to revisions during the course of its determination. Most notably amongst the revised details of that scheme, a proposed external metal fire escape staircase was deleted from that scheme prior to the Council's approval. The approved extension did not appear at the time of my visit to the site to have been implemented.
3. Although the appeal scheme was initially described by the appellant in the manner set out in the banner heading above, the Council subsequently adopted a more comprehensive description of the development. The scheme before me was, however, refused by the Council purely on the basis of the effect of the external staircase on the living conditions of occupiers of neighbouring properties.
4. The appellant has subsequently provided confirmation that the application was made purely in respect of the external fire escape staircase. Whilst the submitted plans show that this staircase would provide access to the extended element of the house, the permission for which does not yet appear to have been implemented, it appears to me that the staircase's installation is not necessarily dependent upon the extension being built. Whilst it is perhaps unlikely that the appellant would choose to install the external fire escape staircase prior to the construction of the extension, it would not be physically impossible to do so. Whilst I have determined the appeal on the basis that the appellant made the application, and for which he sought planning permission, I have also been mindful of the above matters in considering this matter. I have determined the appeal accordingly.

¹ LPA Ref No: DM/19/01147/FPA

² LPA Ref No: DM/22/01354/FPA

5. It is also noted that there is a slight discrepancy between the appeal site addresses set out on the initial planning application form and that subsequently referred to on the Council's decision notice. In the interests of consistency, I have used the address as set out on the initial planning application form.
6. A new and updated version of the Framework was published by the Government on 19 December 2023. With the exception of paragraph numbering, the parts of the Framework most relevant to this appeal have not changed from the previous iteration and, consequently, it has not been necessary for me to seek the further comments of the main parties in this respect. I have determined the appeal accordingly.

Main Issue

7. The main issue is the effect of the proposed development upon the living conditions of occupiers of neighbouring properties, with particular regard to privacy and overlooking.

Reasons

8. The group of houses around Fairways is quite tightly packed. Although the appeal site is a reasonably large plot, the house itself is set towards the rear corner of the site and there is only a narrow pathway and a small, heavily enclosed courtyard area behind it to the western side and northwestern corner. The yard area is also enclosed by a reasonably high stone wall, beyond which the property to the north (Greenacres) has a dense hedge of roughly equivalent height.
9. Beyond the appeal site, Greenacres has a small rear courtyard area, as does the neighbouring Little Beck, whilst Sunrae Cottage has a narrow path for access between its rear elevation and the appeal property's western boundary. All three neighbouring properties have a range of windows on their rear elevations that face towards the appeal property, whilst Fairways itself has a mix of kitchen and utility room windows at ground floor and an existing bedroom window at first floor looking out over the courtyard and towards the neighbouring properties.
10. At the time of my visit to the site it wasn't possible to access the room served by the first floor window at Fairways or to observe the view from it. Nevertheless, it is evident from photographs supplied by the appellant and from viewing from Greenacres and the rear of Sunrae Cottage, that there is already likely to be a significant degree of intervisibility between this elevated window at Fairways and the ground floor windows of Little Beck and, to lesser degrees depending upon the angle of view, to the outside areas of all three neighbouring properties.
11. The proposed fire escape staircase would create an elevated platform just below the existing first floor window. That would, however, result in an eyeline level to anyone stood on it not dissimilar to that of the first floor window but in a position that would be closer to the neighbouring properties than the existing window. Whilst it is the appellant's intention that this platform, and the steps that lead from it, would provide access to the (to be) extended first floor above the existing garage and therefore views from it may be expected to be fleeting and only occasional, there is no means before me to ensure that that would be the case. And, even if it were, those movements of occupiers and the views

taken in while doing so would significantly compound the existing sense of being overlooked that inevitably arises from intervisibility at such close quarters.

12. I accept that the nature of use of a set of fire escape stairs is different in character to that of a bedroom or habitable room. However, I have no means with which to ensure that the stairs would only be used in such emergencies and, as such they could be used more frequently as an additional point of access to or egress from the extended property. Whilst views towards neighbouring properties may not be deliberate they would be possible even they may be involuntary and unavoidable when using the steps. Even if only occasionally, the reality and perception for occupiers of neighbouring properties would be of a greater degree of intervisibility and overlooking between properties, to the detriment of their privacy and overall living conditions.
13. The use of the stairs would see occupiers of Fairways exiting the extended first floor facing directly towards the rear of Greenacres and Little Beck, where a mix of windows and outdoor space are present. The lower steps and platform on the staircase would not afford the same degree of elevation as the top platform at the exit point from the extension, but it would nevertheless be likely to be sufficient to allow further glimpsed views towards the rears of these properties and the windows therein. It seems to me therefore that the proposed introduction of the steps and platforms on the external staircase would provide both a height and an angle of view that would afford greater visibility of the neighbouring properties.
14. Elements of the external staircase would be seen from various points within the neighbouring properties and their gardens and yards. This would therefore serve as a constant reminder of the staircase's presence and potential for overlooking, even if inadvertent and fleeting. The perception may indeed be greater than the reality, but this should not diminish the level of harm that would arise given the proximity of the properties to each other.
15. County Durham Plan (CDP) Policy 31 refers, in part, to matters of amenity. Where proposals have unacceptable impacts upon living conditions arising from overlooking and loss of privacy, they will not be permitted unless satisfactory mitigation measures can be demonstrated. I am not persuaded that the appeal site's boundary walls provide sufficient mitigation, or that other mitigation measures exist and thus, for the reasons I have set out, the proposed external fire escape staircase would result in an additional loss of privacy for, and increased overlooking of, neighbouring properties. This would cause material harm to the living conditions of occupiers of those properties, particularly Greenacres and Little Beck. The appeal proposal is, for reasons set out, contrary to CDP Policy 31 and the provisions of the Framework which seeks, at Part 12, to achieve well-design and beautiful places with high standards of amenity for existing and future users.
16. Although there are windows on the rear face of Sunrae Cottage facing towards the appeal site, these are set at a low level and the wall between the two properties is a substantial height. As it currently exists, only the header of these windows is really visible from height within the appeal site, and vice versa. It may be that the proposal would introduce an increased extent of direct line of sight between the two, but equally that line of sight would be quite steep and unlikely to penetrate into the rooms served by those windows

to any great degree. Nor is the area to the rear of Sunrae Cottage particularly usable other than for access and thus overlooking of this outside area is likely to be limited by the intervening wall, and unlikely to lead to a material impact on the living conditions of occupiers of this property.

Other Matters

17. The appeal site does not lie within a Conservation Area, although I am advised that one is proposed for the village within the Ovington Draft Conservation Area Appraisal. I have not been provided with a copy of this appraisal, the justification for why the appeal property is considered to be a non-designated heritage asset or of the significance of the grade II listed maypole on the green, some distance away on the green opposite the appeal site. Nevertheless, I have noted the Council's conclusion that any effect of the proposal upon these features would be tempered by the secluded location of the staircase at the rear of the appeal property, with limited wider views of it as a consequence. I am also mindful that the proposal's effect on character and appearance was not cited as a reason for refusal. As I have not been presented with any further or compelling evidence to lead me to a different conclusion, I concur with the Council's conclusion in this respect.
18. With regard to the need for an external fire escape staircase, even if it were the case that such an arrangement were required for the purposes of the building regulations, this is not a matter to which I give any significant weight or is sufficient to justify the level of harm to living conditions that I have identified.

Conclusion

19. For the reasons set out above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

G Robbie

INSPECTOR