



Appeal Decision

Site visit made on 27 February 2024

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th March 2024

Appeal Ref: APP/B1550/D/23/3329027

7 High Road, Hockley, Essex, S55 4SY

- 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 Mrs Leanne Rowe against the decision of Rochford District Council.
 - The application Ref 23/00388/FUL dated 28 April 2023, was refused by notice dated 23 June 2023.
 - The development proposed is extension to first floor rear extension with Juliet balcony, extension to form loft room, pitched roofed side dormer, raise roof ridge height at rear of property with addition of rooflight and a gable (pitched) roof on northwest elevations.
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Decision

1. The appeal is allowed, and planning permission is granted for extension to first floor rear extension with Juliet balcony, extension to form loft room, pitched roofed side dormer, raise roof ridge height at rear of property with addition of rooflight and a gable (pitched) roof on north west elevations at 7 High Road, Hockley, Essex, S55 4SY in accordance with the terms of the application ref: Ref 23/00388/FUL dated 28 April 2023 subject to the following conditions:
 - 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission;
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2022/508/0500 Rev A (site plans block plans), 2022/508/0201 Rev A (proposed elevations) and 2022/508/0202 Rev B (proposed floor plans and roof plan);
 - 3) The external finishes of the development hereby permitted shall match in material, colour, and style those of the existing building.

Procedural Matters

2. Since the determination of the application a revised National Planning Policy Framework 2023 (the Framework) was adopted on 5 September 2023. The Framework was then revised in response to the Levelling-Up and Regeneration Bill: reforms to national planning policy consultation on 19 December 2023. The refusal reason does not directly reference the Framework however, it is not considered that this impacts upon the determination of this appeal given the main changes to the Framework and the main issues before me.
3. The Council's delegated report confirms that the proposal is acceptable in relation to character of the host dwelling and the surrounding street scene. The refusal reason is therefore specific to the residential amenity of neighbouring occupiers as outlined in the main issue below. There are several

elements to the appeal proposal, as outlined in the development description, but the refusal reason is ultimately based upon the proposed two storey rear extension as outlined in paragraph 8.9 of the Council's report. For the avoidance of doubt this appeal will focus upon the two-storey rear extension element in the context of the main issue outlined.

Main Issue

4. The main issue is the impact of the proposal upon the residential amenity of neighbouring occupiers with specific regard to overbearingness and outlook.

Reasons

5. The appeal site is a detached, two storey, dwelling house located on High Road within the settlement limits of Hockley. I note, from the relevant site history, that application reference 21/00578/FUL (the existing permission) permitted a proposed part single storey, part two storey rear extension and single storey front extension. The appellant has provided, as part of their submissions, a copy of the approved plans associated with that planning permission, and I note that the existing permission allowed extension at two storeys but with a smaller projection beyond the rear elevation wall of 7a High Road (no. 7a).
6. The proposals which are the subject of this appeal seek to make amendments and enlargements following the already approved extensions which are acknowledged above. The appellant has outlined that, since the approval of this last application, their family circumstances changed as a result of two life changing medical diagnoses affecting two of their children. As a result of this there is now a requirement for the host dwelling to accommodate specialist facilities as outlined in the appellant's statement, and as acknowledged within the Council's delegated report. This, in turn, has resulted for requirement for larger extensions to allow for accessibility and support of both of the children in question which would, in support, assist in the well-being of the wider family which I note to include a third child.
7. As a result of the above requirement the proposal seeks extensions, and alterations, to the host dwelling including a proposed two storey rear extension that would project in the region of 5.1 metres (at the deepest point) and 2.9 metres (at the shallowest point) from the existing rear wall with an overall width in the region of 9.3 metres across the rear elevation of the host property. The proposal would have a pitched roof form with a rear facing gable end and a ridge height in the region of 8.4 metres sloping to an eave height in the region of 5.45 metres. The proposal would result in an elongated ridge line from the front to the rear, measuring in the region of 11.7 metres long with the eaves height remaining similar to that of existing.
8. The proposed, two storey rear extension would be of significant height and depth which is particularly notable from both the submitted side elevations and when compared to the existing permission in place. At the time of my site visit I noted that the adjacent dwelling, no. 7a, has already undertaken a two-storey rear extension which has essentially resulted in the creation of a patio within a recessed area immediately to the rear of the dwelling. As a result of this, from what I saw during my site visit, the properties own two storey extension already prevents outlook from the site when facing towards the west. There is existing vegetation and boundary treatment (high level close boarded fencing) which already contributes, to some extent, in enclosing the patio area,

but I find that the recessed area immediately to the rear of the adjoining dwelling is still likely to enjoy a level of existing openness from the eastern side which is towards the appeal site and along which the rear extension would be constructed.

9. Due to the depth and height of the proposed two storey rear extension, I find that it would appear as a dominant feature which would result in an overbearing impact for occupiers as well as restricting outlook from the rear habitable rooms and the patio at the adjacent property. The proposal would, therefore, result in detrimental impact upon the amenity of neighbouring occupiers in terms of overbearing impact, and outlook, as a result of scale, depth, height, bulk, and siting. This, I find, would be at a level which would be sufficient to warrant refusal.
10. The proposal would be contrary to Development Management Plan 2014 (DMP) Policy DM1 which seeks to ensure that new developments promote visual amenity and create a positive relationship with existing and nearby buildings. The proposal would also be contrary to the guidance contained within the Essex Design Guide 2018 which seeks to ensure new developments are appropriate to the setting and context and Supplementary Planning Document 2 Housing Design 2007 (SPD2) which requires first floor extensions to be decided on their merits having regard to the protection of the amenities of adjacent properties.
11. The Local Plan is the starting point for determination in accordance with S38(6) of the Planning Compulsory Purchase Act 2004 and determination must be made in accordance with the plan unless material considerations indicate otherwise. As outlined earlier within this decision letter, the proposals are required to accommodate the specific needs of two children in terms of current day-to-day activities, accessibility and general well-being. The proposal would also future proof the property as a result of the requirements which will likely evolve over time as the children grow up and their needs evolve over time as a result of both age and medical requirements. The Council acknowledge submission of information, on a private and confidential basis, which provided insight as to the personal circumstances and justification for the proposal.
12. The Council confirmed that the appellant has set out that alternative option to accommodate the lift within the existing internal footprint of the dwelling may not be possible and the existing layout of the dwelling is not practical, hence the scale of the development proposed. The Council do not at any point, within their delegated report, challenge the need for the proposal but state that supporting documentation from healthcare professionals has not been provided (and that there is no requirement for such documentation). From the evidence before me within this appeal I note that Great Ormond Street Hospital for Children has written in support of the proposed development, with particular regard to installation of a through floor lift, indicating that this was recommended following an assessment by an Occupational Therapist. In light of the evidence which is before me I attach substantial weight to the wellbeing of the appellant's two children.
13. I also note that the adjoining property does have an overall large garden which I find offers genuine alternative solutions for utilisation of the overall amenity space with a large proportion which would not be affected by the proposal albeit I acknowledge that this does not overcome the issues found with regard to habitable rooms and outlook immediately to the rear.

14. The Framework is clear in its overarching objective to achieve sustainable development. Paragraph 135 seeks to both ensure that places are safe, inclusive and accessible and which promote health and well-being, but it also seeks to promote a high standard of amenity of existing and future users. The proposal would result in detrimental impact to the patio area, and some habitable rooms, for adjoining occupants, but it would also create a safe, accessible, and sustainable home for the occupiers of the host dwelling with regard to the needs of their children. Both of these matters are main issues that are at the heart of this appeal.
15. Strong evidence has been provided which supports that the proposed development is needed to provide adequate conditions for the day-to-day care, and long-term wellbeing, of two children with medical conditions. The Council do not dispute this need for the proposal, and it would provide vital space to enable adaptations for the appellant's family and, given the lack of alternative options, in particular to provide the floor lift, I attach significant weight to the benefits the development would afford to those persons taking into account the best interests of the children in question.
16. Overall, the adverse impacts of the proposal which I have identified with regard to neighbouring amenity I find are justified and appropriate given the needs of the two children in question as well as the appellant's family and that this outweighs the failure of the proposal to comply with the requirements of DMP Policy DM1 and the guidance contained within the Essex Design Guide and SPD2. I have, in consideration of this appeal, had due regard to Article 8(1)¹ rights, but to dismiss the appeal I find would result in adverse impacts upon the best interests of two children and, potentially, a third child also living with such circumstances with their siblings. The interference to the amenity of neighbouring occupants I find to be proportionate in the circumstances given that I find that the proposal would result in, and is what I would consider to be, the minimum necessary to protect the health and best interests of the children in question.

Other Matters

17. I note an objection from 7a High Road raising matters relating to amenity. Given the main issue within this appeal I have dealt with matters relating to overbearingness and outlook within the main body of this decision letter. The Council have raised no reason for refusal based upon privacy or overlooking and based upon my site visit and the evidence before me, I do not consider the proposed Juliet Balcony (noted by the Parish Council) would give rise to significant overlooking to the height and projected depth of the proposal resulting in peripheral views. Such views would not affect the amenity space to the immediate rear of the neighbouring property with views of rear parts of adjoining gardens, from neighbouring windows, being a reasonable expectation in a residential area.
18. Comments are also raised in relation to loss of light. The Council raise no reason based upon overshadowing or loss of light with their assessment confirming that the proposal is consistent with guidance relating to the 45-degree code (that a projection does not form a horizontal angle greater than 45-degrees with the nearest rear facing habitable room of any adjacent property). The Council also confirm that that they find that the increased mass

¹ Human Rights Act 1998

and potential diminished light (to non-habitable windows) is not considered to result in a significant impact to the daily enjoyment of the adjoining occupiers. Based upon my site visit and the information before me I have no reason to conclude differently on matters of light or overshadowing.

19. I note that the submissions discuss details of an appeal at 8 Grayson (APP/B1550/D/17/3186606) which is stated to have been for a two-storey side extension, single storey rear extension with rooflights and new ramped access to the front which carries similarities, to the appeal proposal before me, in that it enabled a lift to be installed which was medically required by the occupant of that dwelling. Whilst the main issues in that appeal may have been different (though no further information has been submitted as to this appeal – the Council have summarised the main issues in question), and each case should be considered on its own merits, the Council acknowledged that the Inspector attributed significant weight to the wellbeing of the child in order to provide adequate conditions for their daily and developmental needs. I have considered this case on its own merits and, in the case before me, the wellbeing relates to more than one child.

Conditions

20. In the event this appeal is allowed the Council suggested three conditions. I have considered, and applied, these conditions. A time condition is attached to comply with Section 51 of the Planning and Compulsory Purchase Act 2004. A condition requiring the development to be in accordance with the approved plans is required to control and define the development which is granted consent. A condition requiring the external surfaces of the development to match the existing building is required to ensure an appropriate finish.

Conclusion

21. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Eleni Randle

INSPECTOR