



Appeal Decision

Site visit made on 26 March 2024

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2024

Appeal Ref: APP/F2415/D/24/3337653

47 Alvington Way, Market Harborough, Leicestershire, LE16 7NF

- 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 and Mrs Jay and Vanessa Human against the decision of Harborough District Council.
- The application Ref 23/01464/FUL dated 13 October 2023, was refused by notice dated 14 December 2023.
- The development proposed is loft conversion and raised roof construction including rear gabled dormer, 3no rooflights to the front elevation and 2no roof lights to the rear.

Decision

1. The appeal is allowed, and planning permission is granted for loft conversion and raised roof construction including rear gabled dormer, 3no rooflights to the front elevation and 2no roof lights to the rear at 47 Alvington Way, Market Harborough, Leicestershire, LE16 7NF in accordance with the terms of the application ref 23/01464/FUL dated 13 October 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: 2309-02-001 A (site location and proposed block plan), 2309-02-005 B (proposed floor plans), 2309-02-006 B (proposed primary and rear elevations), 2309-02-007 B (proposed street scene), 2309-02-008 - (proposed street scene (coloured));
 - 3) The external finishes of the development hereby permitted shall match in material, colour, and style those of the existing building;
 - 4) The bathroom loft window in the rear elevation shall be obscure glazed, top opening only and maintained as such for the lifetime of the development.

Main Issue

2. The main issue is the impact of the proposal upon neighbouring residential amenity with regard to overbearing impact.

Reasons

3. The appeal site is a detached, residential dwelling which is accessed off a private drive with a separate double garage to the front. Due to the surrounding site levels, the host dwelling is lower than the garage, to the front of the appeal site, and a single storey front extension links the garage to the

host dwelling. At the time of my site visit, I walked around the appeal site, stood in the appeal site garden, and also viewed the appeal site from Turnpike Close itself where it is generally visible between the properties on Turnpike Close. I also visited the appeal site itself viewing the host dwelling from the boundary at the bottom of the garden and have considered images submitted, by the appellant, including those within a neighbouring garden.

4. The dwellings to the rear of the site, in Turnpike Close (such as no. 3 and no. 5 Turnpike Close), generally stand at a lower site level than the appeal site itself with the exception of 1 Turnpike Close (no. 1) which appears as being of a more similar site level to the appeal site and of a larger scale and massing than its immediate neighbour. The proposal seeks to increase the host property's ridge height by in the region of 850mm (0.85 metres) combined with a rear dormer and a half hip roof to gable end. I note that the Council have found that the proposal does not adversely affect the character and appearance of the area and that the style of proposals is stated to respect the surrounding character and I find no reason to conclude differently on these elements.
5. Both parties refer to a separation distance between the host property and the property to the rear (no. 3) in the region of 24 metres between the ground floor principal windows and the 1st floor bedroom windows. The Council makes reference to an unclearly defined Supplementary Planning Document which is listed in their report, under relevant planning policies/guidance, as - 6 Residential Extensions. The Council has gone on to provide a copy of Development Management Supplementary Planning Document 2021 (SPD) within their appeal submissions, but this is not referenced within the refusal reason stated by the Council within their decision notice.
6. The separation distance between the conservatory, at no. 3 and the rear elevation of the appeal property is stated to be in the region of 20.5 metres, however, I do not consider that a conservatory would usually be generally classified as a habitable room. Regardless of whether the conservatory is, or is not, a habitable room, the separation distances are stated by both parties to be in the region of 20.5 metres. This is 0.5 metres short of the separation distance, which is stated, by the Council, to be required. The same proposals, separated by a further 0.5 metres, would not be appreciably different to the proposals as they are before me in terms of any perceived impact.
7. Within the SPD, figure 2.2 demonstrates minimum separation distance of 21 metres between facing elevations containing principal windows serving habitable rooms. Table 2.2 sets out separation distances between different storey buildings. Even taking into account the difference in site levels, I find that the proposal exceeds the general guidance as to separation distances and, in any case, it is stated that the standard will be applied flexibly depending on the individual merits of each site. The Council's assessment states that given the difference in site levels, a longer separation distance would be required, however, the Council have not gone on to specify the claimed shortfall in separation distance within their delegated report nor have they considered other, neighbouring, properties in the same context with reference to separation distances to support the assertion that the proposal would over dominate no. 1 and no. 5 respectively.
8. On the basis that the distance from the conservatory, at no. 3, to the host property is 20.5 metres (so a shade under the 21 metres) and the separation

between the ground floor principle windows and first floor bedroom windows is 24 metres I find that the separation is sufficient taking into account the evidence before me guidance within the SPD and the evidence from the Council which is before me. The existing separation distance between the properties is not, realistically, reduced given that the footprint of the host dwelling would remain the same. As previously noted, in this case I find that the same proposals, separated by a further 0.5 metres, would not be appreciably different to the proposals as they are before me albeit it would arguably comply with the requirements of the SPD on plan. In this case a failure to comply with the SPD guidance does not result in demonstrable harm compared to, for example, something which did. I do not find an additional 0.5m would make a difference in this case.

9. Based upon the evidence before me, I do not find that the proposal would significantly over dominate the residence of no. 3, to the immediate rear, nor neighbouring properties at no. 1 and no. 5, respectively. No. 1 would have views of the proposal, but these would not be in direct, natural, views and I find that no. 1 is at a similar level and scale to the appeal proposal and existing dwelling (of greater ridge height) that 49 Alvington Way. No. 5 would, evidently have general views of the proposal, however, the proposal would not line up with this property no. 5 would retain open, natural views, over the gardens of other properties in Turnpike Close. I do not find that the increase in ridge height and proposed extensions at the appeal site impact to an extent which would warrant refusal due to views being indirect or oblique. The host dwelling would appear larger to the properties in Turnpike Close, however, this does not necessarily mean that the proposal would be overbearing.
10. I note concern has been raised in relation to 13 Turnpike Close (no. 13), however, I do not consider an increase in overall height in the region of 0.85m to be of significant detrimental impact taking into account the previously approved plans 19/00758/FUL which, albeit it at a lower ridge height, would have levelled up the roof as well as taking into consideration photographs taken from within the rear garden of no. 13. For the reasons set out I do not find that the proposal, due to its design, scale and massing would be significantly overbearing upon existing residents nor that it would adversely affects neighbour's amenity to a level which warrants refusal taking into account the general separation between properties and nature/layout of the host dwelling and surrounding properties.
11. The proposal would be consistent with Harborough Local Plan 2019 Policy GD8, which outlines that development will be permitted where it achieves a high standard of design including meeting additional criteria such as not having a significant adverse effect on the living conditions of existing and new residents through overbearing impact. The proposal would also be consistent with the National Planning Policy Framework 2023, paragraph 135, which seeks to ensure that decisions should ensure developments create places with a high standard of amenity for existing and future users.

Other Matters

12. I note that there are third party comments which have been submitted as part of this application. I have dealt with matters relating to overbearing impact/amenity within the main issue of this decision letter. I note comments in relation to privacy, however, the Council's refusal reason is not based upon

loss of privacy. Due to the height and size of the proposed new windows I do not find that any loss of privacy would, in this case, be sufficient to warrant refusal subject to conditions (as to obscure glazing and top opening only) as suggested within the Council's delegated report. I have applied these conditions as outlined at the start of this decision letter.

13. I note the appellant's comments regarding comments made, by the Council, during the determination of the appeal, the nature of any site visits/lack of site visits and uploading of documentation to the Council's website. Despite this this appeal is not accompanied by an application for costs and it is not within the scope of this appeal to comment upon the handling of the application process itself. I do not find that the Council's comments prejudiced the determination of the proposal.

Conditions

14. The Council have suggested four conditions in the event that the appeal is allowed. I have considered these suggestions and applied them as appropriate. 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. A condition relating to obscure glazing, and restriction as top opening only, in the loft bathroom is required to protect the privacy of neighbouring properties.

Conclusion

15. 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