



Appeal Decision

Site visit made on 25 March 2024

by Ian McHugh DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14.05.2024

Appeal Ref: APP/J1535/D/23/3333399

39 Albion Hill, Loughton, IG10 4RD

- 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 Pasquale Giordano against the decision of Epping Forest District Council.
 - The application Ref EPF/1966/23, dated 28 July 2023, was refused by notice dated 9 November 2023.
 - The development proposed is the retention of an infill extension on ground floor to side/front elevation with a flat roof, extension to single-storey rear extension, increase in overall height of building inc eaves, internal and external alterations including door/window openings with Juliet balconies and external finishes.
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Decision

1. The appeal is allowed and planning permission is granted for the retention of an infill extension on ground floor to side/front elevation with a flat roof, extension to single-storey rear extension, increase in overall height of building inc eaves, internal and external alterations including door/window openings with Juliet balconies and external finishes at 39 Albion Hill, Loughton, IG10 4RD, in accordance with the terms of the application, Ref EPF/1966/23, dated 28 July 2023, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, TOQ_201, TOQ_202, TOQ_210, and TOQ_211.
 - 2) Within 3 months of the date of the decision notice, the first floor rear doors shall be fitted with obscure glass with a minimum Pilkington privacy level 3 obscurity (or equivalent) and with restricted inward opening hinges to 45 degrees. Once installed the obscure glass and restricted hinges shall be retained at these specifications thereafter.
 - 3) Access to the flat roofs shall be for maintenance or emergency purposes only and the flat roof shall not be used at any time as a seating area, roof garden, terrace, patio, or similar amenity area.
 - 4) No deliveries, external running of plant and equipment or demolition and construction works, other than internal works not audible outside the site boundary, shall take place on the site other than between the hours of 08:00 to 18:00 on Monday to Friday and 08:00 to 13:00 on Saturday and not at all on Sundays, Public or Bank Holidays.

Procedural Matters

2. The description used in the heading above are taken from the Council's decision notice. Whilst this differs from the description given on the planning application form, I consider that the Council's description is more representative of the development as a whole.
3. As stated in the description the proposed works have largely been carried out. This has not influenced my decision.

Main Issues

4. The issues are: the effect of the proposal on the character and appearance of the area; and the effect on the living conditions of the occupants of number 4 Hill View Close, with particular regard to privacy and outlook.

Reasons

Character and Appearance

5. The appeal property is a detached dwelling, which is situated in a residential area where house types vary in terms of their age, scale and design. These include modern, relatively large properties. The appeal dwelling sits in an elevated position within a relatively large plot.
6. The property has a somewhat complex planning history, which includes a recent planning permission to construct a single-storey extension, new dormers and internal alterations (EPF/0277/20). It appears that the approved plans have not been adhered to and the current proposal seeks to gain approval for what has been built and including the works contained in the heading above.
7. The Council considers that the proposal has a detrimental impact on the character and appearance of the area, because of the increased height of the property. It states that it conflicts with Policy DM9 of the adopted Epping Forest District Local Plan (LP). This policy seeks to ensure (amongst other things) that the design of new development is of high quality that relates positively to local characteristics. This accords with paragraph 135 of The National Planning Policy Framework 2023 (The Framework), which contains similar provisions.
8. At my site visit, I was able to view the mix of dwellings on Albion Hill, which includes contemporary properties that are comparable with the style and scale of the appeal dwelling. The Council Officer's report states that the overall height of the dwelling has increased by some 400mm when compared to the proposal approved under EPF/0277/20). In my opinion, the height of the building does not appear at odds or out of context with its surroundings.
9. In addition, I consider that the extensions proposed are acceptable in terms of their scale and design. Accordingly, the proposal does not have an adverse impact on the character and appearance of the area and it does not conflict with Policy DM9 of the LP, or with The Framework, as referred to above.

Living Conditions

10. Number 4 Hill View Close (number 4) is situated at the rear of the appeal property. The Council states that the proposal will result in excessive overlooking and loss of visual amenity to the occupiers of number 4. As such,

it conflicts with Policy DM9 of the LP. This policy seeks to ensure (amongst other things) that development proposals consider the privacy and amenity of neighbours.

11. The Council's decision notice also cited conflict with paragraph 130 of The Framework. Since the decision was issued, The Framework has been revised (in December 2023) and the relevant paragraph is now number 135. This states (amongst other things) that planning decisions should create places with a high standard of amenity for existing and future users.
12. The appellant states that the separation distance between the two dwellings is approximately 35m. However, I consider that the distance is less in parts because of the irregular shape of the garden of the appeal property.
13. Notwithstanding, I consider that the distance involved is acceptable and subject to conditions requiring the use of obscure glazing on specific windows and restrictions on the use of the flat roofs, the proposal will not have an unacceptably adverse effect on the privacy of the occupants of number 4. Furthermore, I am not persuaded that the outlook from number 4 will be harmed, because of the distances involved. Therefore, on this issue, the proposal does not conflict with Policy DM9 of the LP or with paragraph 135 of The Framework, as referred to above.

Conditions

14. The Council has suggested conditions in the event of the appeal being allowed. As much of the development has already been started, there is no need for the standard condition requiring commencement within 3 years. For clarity, a condition is imposed specifying the approved plans.
15. The property has been rendered with a tiled roof. I consider these to be acceptable and, therefore a condition relating to external materials is not necessary.
16. The Council has suggested that a condition be imposed that requires the first floor rear doors to be obscure glazed with restricted openings. I agree that a condition to that effect will ensure the privacy of the occupants of number 4 Hill View Close at a point where the appeal property's garden is at its shortest. For the same reason, a condition is also imposed that prevents the flat roofs of the rear and side extensions from being used as an outdoor amenity space.
17. It has also been suggested that conditions be imposed that would remove permitted development rights in relation to alterations and extensions, including additions and alterations to the roofs of the property. Furthermore, the Council propose that a condition preventing the installation of additional windows be imposed. I have given this matter some consideration.
18. The Planning Practice Guidance states that conditions restricting permitted development rights may not pass the test of reasonableness or necessity. In this case, I do not agree that the suggested conditions should be imposed. In my opinion, they should only be used where there is clear justification and I am not persuaded that the justification exists in this case.
19. A condition is imposed that restricts the hours of construction work and associated deliveries. This is necessary to prevent nuisance and disturbance to the occupants of neighbouring properties.

Conclusion

20. For the reasons given above, it is concluded that the appeal be allowed.

Ian McHugh

INSPECTOR