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# Appeal Decision

Site visit made on 30 April 2024

**by A Berry MTCP (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20<sup>TH</sup> May 2024**

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**Appeal Ref: APP/R2520/D/24/3340437**

**9 & 10 Avenue Villas, Grantham Road, Coleby, Lincoln, Lincolnshire  
LN5 0AP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Neil Foster against the decision of North Kesteven District Council.
  - The application Ref is 23/1261/HOUS.
  - The development proposed is the construction of a two-storey rear and side extension, conversion of roof space into living accommodation, construction of a new basement beneath the proposed rear extension, construction of a lean-to roof and porches to the front elevation, and construction of a new garden wall to the front aspect of the site which fronts the A607.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The address in the banner heading above has been amended from that shown on the planning application form to include both 9 and 10 Avenue Villas as the appeal site contains the pair of semi-detached dwellings. However, they are occupied as one dwelling. I have therefore determined the appeal on this basis.
3. Since the planning application was determined, a revised National Planning Policy Framework (Framework) has been published. This has not raised any new matters which are determinative to the outcome of this appeal. However, I have referenced the revised paragraph numbers, where necessary.

## Main Issues

4. The main issues are the effect of the proposal on:
  - a) the living conditions of the occupiers of 8 Avenue Villas, with particular reference to a loss of light; and
  - b) the character and appearance of the surrounding area.

## Reasons

### *Living Conditions – Loss of Light*

5. The proposed side/rear extension would be in proximity to the boundary shared with No 8 and would have a blank, two-storey flank elevation that would project beyond the neighbouring property's rear elevation. The gable of the extension would add to its massing, however, it would be positioned in line

with the side elevation of No 8, while the pitched roof of the rear extension would slope away from No 8.

6. From my observations on site, the openings within the side elevation of No 8 comprise either secondary windows or serve rooms that would not be frequently used. Furthermore, I agree with the appellant's assertion that the rear extension would comply with the 45-degree guideline<sup>1</sup> when measured from the nearest window in the rear elevation of No 8.
7. Consequently, in reference to the first main issue, the proposal would not harm the living conditions of the occupiers of 8 Avenue Villas, with particular reference to a loss of light. It would therefore comply with Policy S53(8d) of the Central Lincolnshire Local Plan, adopted 2023 (LP) which, amongst other things, seeks to ensure that a proposal does not result in harm to people's amenity. It would also comply with paragraph 135(f) of the Framework that seeks to create places with a high standard of amenity for existing users.

### *Character and Appearance*

8. The appeal site comprises one of 6 pairs of two-storey, semi-detached, hipped roof dwellings sited in a row along one side of Grantham Road. The row of dwellings is predominantly surrounded by open fields and the dwellings are set back a similar distance from the road by a front garden/off-road parking. While the uniformity of these dwellings has altered with the construction of some side extensions, these examples are set back from the dwellings' front elevations and therefore are not highly prominent when travelling along the road. Consequently, the front elevations of the dwellings within the row still maintain a relatively cohesive character and appearance.
9. In contrast, the proposed two-storey side extension would have a pitched roof and would be flush with the front elevation of the dwelling, and the hipped roof on the opposite side of the dwelling would be altered to a pitched roof. The pitched roofs would be incongruous to the row of dwellings, while the design of the proposed two-storey side extension would not be subservient due to the lack of a set back. The proposed two-storey side extension would reduce the gap between the appeal site and No 8, however, a sizeable gap would still be maintained and therefore, it would not result in a terracing effect.
10. A porch with a pitched roof would be constructed in front of each door, square bay windows would project from the ground floor front windows and a lean-to roof would connect the two. These features would erode the established building line of the row of dwellings and the predominant flush appearance of the dwellings' front elevations. Consequently, they would appear alien to the character and appearance of the surrounding area.
11. I acknowledge that the proposed porches could be constructed without planning permission, however, they form part of the proposal before me and therefore I must consider the development as a whole. The appellant asserts that the boundary walls and gates proposed along the roadside would largely screen the porches, square bay windows and lean-to roof. However, the drawing titled 'Proposed Elevation on Front Wall' clearly demonstrates that these features would still be visible above the height of the proposed wall and

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<sup>1</sup> BRE Guide "Site Layout Planning for Daylight and Sunlight – A guide to good practice (2002)

gates. Furthermore, screening should not be used to hide an otherwise unacceptable form of development.

12. Planning permission was previously granted, but not implemented, for a two-storey side extension to 10 Avenue Villas<sup>2</sup> that forms part of the appeal site. Elevational drawings of the approved extension indicate that it is not directly comparable to the appeal proposal as it had a hipped roof and maintained the flush appearance of the dwelling's front elevation. Furthermore, it was approved under a different development plan, and I am not aware of the design policies that were in place at the time.
13. I have been directed to a two-storey side extension that has been constructed at 3 Avenue Villas. However, this is not directly comparable to the appeal proposal as it is stepped back from the front elevation and has a hipped roof. I have also been directed to other examples of extensions and roof alterations that have been constructed on dwellings in the surrounding area. However, I have not been provided with the full planning history of these examples. Furthermore, some of the pictures demonstrate that the dwellings to either side differ in their appearance and therefore the character and appearance of the street is mixed. In any event, I must determine each case on its own merits.
14. While the appeal site is not subject to any planning constraints or designations, such as a Conservation Area, nor is the dwelling notable for its architecture, this does not preclude a proposal's need to maintain or enhance the character and appearance of the surrounding area. I accept that the proposed materials would complement the existing dwelling, however, this would not overcome the previous concerns I have raised in respect of design.
15. In reference to the second main issue, the proposal would harm the character and appearance of the surrounding area. It would conflict with Policy S53 of the LP and Policy 3(1b) of the Coleby Parish Neighbourhood Plan, made 2018 which, amongst other things, seek to ensure that development integrates into the surroundings, is based on a sound understanding of the context, and recognises and reinforces local character. It would also conflict with paragraphs 131 and 135 of the Framework that, amongst other things, seek to create high quality, beautiful buildings that are sympathetic to local character, including the surrounding built environment. It would adhere to paragraph 139 of the Framework that requires development that is not well designed to be refused.

## **Other Matters**

16. It has been brought to my attention that members of the appellant's family, including children, have been diagnosed with health conditions that meet the statutory definition of a disability. Since there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010 (the Act), which sets out the need to eliminate unlawful discrimination, harassment, and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not.

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<sup>2</sup> Planning Ref 18/0126/HOUS

17. I have also had regard to Article 8(1) of the European Convention on Human Rights as enshrined in the Human Rights Act 1998, that everyone has the right to respect for his private and family life and his home. Where Article 8(1) rights are those of children, as in this case, they must also be seen in the context of Article 3(1) of the United Nations Convention on the Rights of the Child. Childrens' best interests are thus a primary consideration and no other consideration, including the impact on the character and appearance of the area, is intrinsically more important.
18. I have considered the personal circumstances of the family members. The best interests of the children weigh in favour of allowing the appeal. The appellant asserts that a lift is required to allow access between the ground and first floors of the dwelling, larger bedrooms are required, as well as an accessible bathroom. Nonetheless, this consideration is tempered somewhat as limited evidence has been provided that the proposal is the only design that could secure the proposed features. Therefore, I am not persuaded from the information before me, that the best interests of these children and other family members could not be achieved by less harmful means of extending and altering the existing dwelling.
19. As such, while I acknowledge the particular circumstances of the family members, there are no considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. My decision is a proportionate and legitimate response to the requirements of the Act and those of the plan led system.
20. The proposal would create employment opportunities during its construction. However, I attach limited weight to this benefit due to the scale of the proposal and its temporary nature. The appellant asserts that the proposal could result in a higher Council Tax payment due to its size increase. However, no substantive evidence has been provided that this would occur. The proposal would make the more efficient use of land and maximise the accessibility of the existing dwelling. However, I'm not convinced that these objectives could not be achieved by a less harmful design. Conforming to Building Regulations, the plot is of a size that can accommodate the proposal, and there would be no harm to ecology, are neutral matters.

## **Conclusion**

21. For the reasons set out above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

*A Berry*

INSPECTOR