



Appeal Decision

Site visit made on 8 January 2025

by **K E Down MA(Oxon) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 January 2025

Appeal Ref: APP/J0405/D/24/3351037

39 Nightingale Road, Aylesbury, Buckinghamshire, HP21 8HS

- 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 A Hussain against the decision of Buckinghamshire Council.
 - The application Ref is 24/01619/APP.
 - The development proposed is a loft conversion with dormer extension to rear roof slope.
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Decision

1. The appeal is allowed and planning permission is granted for a loft conversion with dormer extension to rear roof slope at 39 Nightingale Road, Aylesbury, Buckinghamshire, HP21 8HS in accordance with the terms of the application, Ref 24/01619/APP, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan, Block plan, Plans & elevations ref. 24/2432-1, Car parking layout ref. 24/2432-2.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issues

2. There are two main issues. Firstly, the effect of the proposed rear dormer on the character and appearance of the host dwelling, the adjoining terrace and the surrounding area; and secondly, the effect of the proposed dormer on the living conditions of neighbouring occupiers with respect to outlook.

Reasons

3. The appeal dwelling is a mid-terraced house on a residential street characterised by similar terraced dwellings set on generous plots. It has been extended in the past by a large single storey rear addition that occupies the full width of the rear elevation. There are existing rooflights in the rear roof slope.
4. The Council accepts that the proposed dormer would not be visible from Nightingale Road but considers that it would be highly visible from neighbouring properties, detract from the character of the dwelling and unbalance the terrace,

thus harming the character and appearance of the surrounding area to the rear. In particular, the Council notes that similar dormers are not a common feature in the area, and I agree that I could not see any from the garden of the appeal dwelling.

5. The Council's Supplementary Planning Document, Design (SPD), 2023, expects the original building to remain the dominant element of the property and the effect of an extension should not overwhelm the property from any given viewpoint. It also states that flat roofed dormers may be acceptable to the rear of properties provided they don't rise above the main ridge of the roof, are subservient to the main dwelling and do not dominate the roof plane.
6. The proposed dormer would be set in from the sides, down from the ridge and up from the first floor eave of the dwelling and would have no effect on the main, street-facing façade. Whilst it would occupy the majority of the rear roof slope and be clearly visible, it would be lower than and subordinate to the dwelling as a whole, the rear of which is already dominated by the single storey extension. Moreover, it would be modest in the context of the terrace roofscape. Taken in the context of the overall dwelling, I therefore find that it would not overwhelm the house. Furthermore, it would be balanced by the single storey rear extension, which would avoid the dwelling gaining a top-heavy appearance.
7. From neighbouring gardens to the rear, it would be seen sitting within the roof of the terrace on which it would be a clearly visible but not overly dominant structure. Owing to the length of gardens and intervening vegetation it would appear as a modest addition when seen from dwellings in Elm Green and Penn Road. From the gardens of immediate neighbours it would, taken together with existing extensions, not appear materially disproportionate to the dwelling as a whole.
8. Overall, I consider that the development would be generally consistent with the SPD. However, owing to the lack of similar development in the immediate area, I find some tension with Policy BE2 of the Vale of Aylesbury Local Plan 2013-2033 (LP), 2021, which expects new development to respect and complement the physical characteristics of the site and its surroundings and the local distinctiveness and vernacular character of the locality.
9. However, the appellant's evidence draws my attention to similar dormers that have been permitted on similar dwellings in nearby streets on the same estate and whilst not common, large rear dormers do thus form part of the character of the wider area. I note that some of these dormers referred to have been granted Lawful Development Certificates under which the tests are different. Nevertheless, their presence and the likelihood of more being built as permitted development is a material consideration.
10. Moreover, the appellant states that the proposed dormer meets the government guidelines in terms of volume, and the submitted plans appear to accord with this and other limitations. The Council confirms that the dwelling has not had permitted development rights withdrawn. On balance, it therefore appears to me that this, or a very similar dormer, could be built under permitted development rights at the appeal dwelling and/or at others nearby. Taken together with the presence of similar dormers in the area and the likelihood of others being built, I give significant weight to these matters.

11. It is concluded on the first main issue that, owing to the proposed development being uncharacteristic in the immediate area, there would be some conflict with LP Policy BE2 in the context of the surrounding area. However, the general compliance with the SPD and the other material considerations, as set out above, would outweigh the modest harm arising from this and justify setting aside this inconsistency. In consequence, I find that the limited detriment to the character and appearance of the surrounding area would not be sufficient to amount to a reason for refusal of the appeal.
12. Turning to the living conditions of neighbours, the Council accepts that the proposed dormer would not harm privacy or light at neighbouring dwellings. However, it considers that the dormer would be an overbearing and unneighbourly structure. It would, undoubtedly, be clearly visible from nearby gardens. However, given that the dormer would be wholly contained within the roof slope of the host dwelling and would be of a scale commensurate with similar dormers commonly seen and such as are found on similar dwellings in the area, I disagree that it would be either overbearing or unneighbourly.
13. It is concluded on the second main issue that the proposed dormer will have no materially harmful effect on the living conditions of neighbouring occupiers with respect to outlook. In consequence, it would comply with LP Policy BE3 which resists development that would unreasonably harm any aspect of the amenity of existing residents and would not achieve a satisfactory level of amenity for future residents.
14. Turning to conditions, the Council suggests two conditions in addition to the statutory commencement condition. I agree that the development should be carried out in accordance with the approved plans to ensure certainty and that it should be built in matching materials to protect the character and appearance of the host dwelling and the surrounding area.
15. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be allowed.

K E Down
INSPECTOR