
Appeal Decision

Site visit made on 17 January 2025 by R Pankhurst

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2025

Appeal Ref: APP/B1550/D/24/3353841

33 Hamilton Gardens, Hockley, Essex, SS5 5BT

- 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 Ken Baker against the decision of Rochford District Council.
 - The application Ref is 24/00519/FUL.
 - The development proposed is front and rear dormers, hip to gable roof, Velux rooflights and rear balcony.
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue is the effect of the proposed rear balcony on the living conditions of neighbouring properties, with particular regard to privacy and outlook.

Reasons for the Recommendation

4. The appeal site is a semi-detached bungalow situated in Hamilton Gardens, a residential street consisting of semi-detached bungalows and two storey detached dwellings. There is variation in the style of properties with some benefiting from rear and front dormers, and a variety of materials including brickwork, render and cladding. There is also some variation in the roofscape with the appeal site incorporating a hipped roof with a forward projecting gable.
5. During my visit I saw that work had started on the rear dormer and hip to gable roof extension. Work had not started on the proposed balcony. The Council raises no objection to the proposed front and rear dormers, the hip to gable roof extension or the rooflights and from the evidence before me I have no reason to come to a different view. The main issue in dispute is therefore the proposed balcony.
6. The properties in the immediate vicinity of the appeal site are bungalows with few windows at roof level, resulting in largely private gardens. 35 Hamilton Gardens has extended into the roof but with rooflights at the rear at an elevated level, which do not provide views into neighbouring gardens. The elevated position and proximity of the proposed balcony would provide views into the currently private garden of No 35. Furthermore, the proposed balcony is of a size that it could be used for sitting

- out. This would result in more prolonged views and a stronger perception of being overlooked as people using the balcony could be seen and heard from neighbouring properties. As a result, the proposed balcony would result in a significant and harmful loss of privacy for the occupiers of No 35, causing an unacceptable impact on their living conditions.
7. The view from the proposed balcony into the garden of 31 Hamilton Gardens would however be restricted due to the distance to the shared boundary and the outbuildings along that boundary. Additionally, the view from the garden of 22 Rosslyn Road at the rear would be limited due to its offset position and distance to the appeal site. Therefore, the balcony would not result in significant harm to the living conditions of the occupiers of either No 31 or No 22.
 8. The proposed balcony would have privacy screens with obscured glass either side, which would prevent direct overlooking from the sides. However, it would have a lower screen at the front, allowing for views into the garden of No 35 and from that garden up towards the balcony. Furthermore, the presence of people outside would continue to have an intrusive impact despite the screens. Some direct overlooking of No 35, and a clear perception of being overlooked, would therefore remain even with the side screens. Consequently, while the proposed screens would provide some protection from direct overlooking, they would not adequately mitigate the significant harm to the living conditions of the occupiers of No 35.
 9. I acknowledge that there would be some overlooking from the rear dormer under construction, however, it would be limited as it would be from an enclosed space and the window will be set further away from the garden than the proposed balcony. The balcony would therefore have a more intrusive impact than overlooking from existing windows and those under construction.
 10. As it stands, the side wall of the rear dormer is only a little visible from the garden of No 35 and does not protrude past the shared party wall at first floor level. While there is an area of flat roofed pergola in the location of the proposed balcony, it is relatively insubstantial and does not significantly impact the outlook from the rear of No 35 and its garden. However, the proposed balcony would have tall, obscured screens along its length, and therefore would be a more substantial construction than currently exists. The depth and height of the balcony plus the privacy screens, in close proximity to the shared boundary, means that it would be clearly visible from No 35, and would have an overbearing visual impact when viewed from that property. This would harmfully change the outlook from the rear of No 35 and its garden.
 11. For the reasons above, I find that the balcony would harm the living conditions of the occupiers of No 35 with regard to privacy and outlook. That part of the proposed development is therefore contrary to Policy DM1 of the Development Management Plan (adopted December 2014) which requires development to positively contribute to residential amenity, and that designs should carefully consider and address various criteria, including avoiding overlooking and ensuring privacy and promoting visual amenity.
 12. Furthermore, there would be conflict with Policy HP6 of the Housing Design Supplementary Planning Guidance (adopted January 2007) which also seeks to ensure development considers overlooking and privacy.

Other matters

13. The appellant has offered to reduce the size of the balcony. However, I can only determine the appeal based on the plans submitted with the application to the Council. Additionally, the fact no neighbour comments have been received from adjacent properties in relation to the proposal is a neutral matter in determining this appeal.
14. I have had regard to Nos 54, 56, 58 and No 26 as highlighted by the appellant. I do not know the context behind the permission for a larger balcony at No 54 or the relationship between this property and its neighbours, and therefore it has not been demonstrated that the situation is comparable to the appeal proposal. The other properties do not appear to include balconies. For these reasons, the developments at the above properties carry very limited weight and do not outweigh the harm the proposal would cause to the living conditions of No 35.

Conclusion

15. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

R Pankhurst

APPEAL PLANNING OFFICER

Inspector's Decision

16. I have considered all the submitted evidence and my representative's report and agree with the reasoning and recommendation. On that basis the appeal is dismissed.

L McKay

INSPECTOR