



Appeal Decision

Site visit made on 24 APRIL 2025

by **Terrence Kemmann-Lane JP DipTP FRTPI MCMI**

an Inspector appointed by the Secretary of State

Decision date: 07 May 2025

Appeal Ref: APP/X1545/D/25/3358803

31 Hillside Road, Burnham-on-Crouch, CM0 8EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Melanie Harper against the decision of Maldon District Council.
 - The application Ref is VAR/MAL/24/00557.
 - The application sought planning permission for addition of first floor level to existing bungalow, single storey front extension and single storey rear extension, change to external materials, addition of solar panels, fenestration alterations and removal of chimney (revision of 21/01044/HOUSE) without complying with a condition attached to planning permission Ref 23/00789/HOUSE, dated 18 October 2023.
 - The condition in dispute is No.3 which states that: The rooflights on the north facing roof slope shall be glazed with opaque glass and of a non-openable design below a height of 1.7m above internal floor level and shall be retained as such thereafter.
 - The reason given for the condition is: To safeguard the residential amenity of neighbouring properties and to accord with Policy D1 of the approved Local Development Plan and the NPPF.
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Decision

1. The appeal is allowed and planning permission is granted for addition of first floor level to existing bungalow, single storey front extension and single storey rear extension, change to external materials, addition of solar panels, fenestration alterations and removal of chimney (revision of 21/01044/HOUSE) at 31 Hillside Road, Burnham-on-Crouch, CM0 8EY in accordance with the application Ref VAR/MAL/24/00557 without compliance with the condition No.3 previously imposed on the planning permission Ref 23/00789/HOUSE dated 18 October 2023, but subject to the following condition:
 - 1) The development shall be completed in accordance with the approved plans reference Nos.23-071-004_Rev B, 23-071-006, and 23-071-007_Rev A ,

Preliminary matters

2. The development permitted under reference No. 23/00789/HOUSE is in the process of being completed without compliance with condition No.3. The development so far completed has clear glazing in the subject windows, and so does not comply with condition 3.

Main Issue

3. There is a single issue in this case: whether the removal of condition 3 from the permission, and the retention of the rooflights on the north facing roof slope in clear glazing and without limit to the degree of opening, would be harmful to neighbouring occupiers due to overlooking and a loss of privacy

Reasons

4. The appeal site is located on the western side of Hillside Road at its junction with Fernlea Road within Burnham-on-Crouch. The surrounding area is residential, with dwellings of varying design. Planning permission was granted for the addition at first floor level to the existing bungalow, single storey front extension and single storey rear extension, change to external materials, addition of solar panels, fenestration alterations and removal of chimney under reference 23/00789/HOUSE which was a revision of 21/01044/HOUSE (allowed on appeal APP/X1545/D/21/3288426). The appeal dwelling is a detached house, appearing as a 2-storey house at the front and a chalet bungalow to the rear.
5. The nearest neighbours that are considered in the officer's report are No.33 Hillside Road to the west and No.13 Fernlea Road to the north. Number 22 Hornet Way is also mentioned since there was an objection made in respect of that property. As a result of what I saw at my site visit, there is no other neighbouring property that would be affected by the retention of the subject rooflights with clear glazing in their present position.
6. Number 33 is a detached 2-storey house, with its long axis parallel with Hillside Road, whilst the appeal dwelling has its long axis parallel to Fernlea Road. As a result, the subject rooflights at the rear of No.31 are some 3m to 4m behind the rear elevation of No.33. The result is that any view out of these rooflights is of the rear part of the garden of No.33, and at an oblique angle.
7. At my site visit, although the internal work to the appeal property is not yet complete, I was able to access the first floor to see for myself the view to the north from the subject rooflights. I found that the bottom of the rooflights is about 1.6m above internal floor level, some 0.1m lower than the level below which Condition 3 requires the windows to be glazed with opaque glass and of a non-openable design. I came to the conclusion that, as far as No.33 is concerned, due to the oblique angle of view and the rear part of the garden that is seen, this difference between the position required by condition 3 and the position occupied by the rooflights does not justify retention of the condition. In reaching this conclusion, I have also taken account of the fact that in a row of 2-storey houses it is normal for first-floor windows to have a reasonably clear view over a large part of the neighbours' gardens.
8. As for No.13 Fernlea Road, as noted in the officer's report, the subject rooflights would be 14m from this dwelling. Due to the size and position, and being flush with the roofslope, the rooflights would result in a very limited loss of privacy for the occupiers of this neighbouring property, such that condition 3 is not necessary. In respect of No.22 Hornet Way, I consider that the distance between the appeal dwelling and that house is such that there is no material overlooking that would justify dismissing this appeal.

9. For the reasons that I have set out, I will allow the appeal.
10. The council has suggested that in the event of the appeal being allowed, there should be 3 conditions imposed: the standard time limit for the start of development, that the development should have external surfaces matching the existing building, and that the development should be in accordance with the plans.
11. The first of these is not necessary since the appeal development has already 'started'. Nor is the second as the development has been built with materials that are not criticised in the refusal notice. As to the third suggested condition, there may be some aspect of the development that is not yet complete so that it would be sensible for me to re-impose the condition requiring it to be completed in accordance with the plans. I will therefore include that condition on the permission that I grant to ensure satisfactory completion of the development.

Terrence Kemmann-Lane

INSPECTOR