

Appeal Decision

Site visit made on 20 December 2016

by Mr Kim Bennett BSc DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3rd January 2017

Appeal Ref: APP/X1545/D/16/3159389

Little Foxes, Summerhill, Althorne CM3 6BY

- 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 Mr & Mrs East against the decision of Maldon District Council.
 - The application Ref 16/00604, dated 25 May 2016, was refused by notice dated 19 August 2016.
 - The development proposed was described as 'two storey rear extension, internal remodelling and insertion of obscured windows to existing first floor side elevations.'
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Application for Costs

1. An application for costs was made by Mr & Mrs East against Maldon District Council. That application is the subject of a separate decision.

Decision

2. The appeal is dismissed.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupiers of the neighbouring residential property known as The Tree House.

Reasons

4. The appeal property, Little Foxes, comprises a modern two storey detached house located on the western side of Summerhill, almost opposite the Parish Hall. There is residential development on both sides of Summerhill with a variety of architectural styles and sizes of property. Adjacent to the south is a detached property known as Half Moon House on approximately the same footprint and alignment as Little Foxes. Adjacent to the north is also a detached property known as The Tree House. Its rear elevation is set just under 3 metres beyond the rear of Little Foxes.
5. The Council is concerned that there could be an oppressive relationship and loss of light to living accommodation within the Tree House.
6. Because of the Council's concerns, I took the opportunity at the site visit to assess the relationship from inside The Tree House as well as from the appeal site itself. At the rear, both properties are inset from the rear common boundary by approximately 1 metre on each side of a tall close boarded fence. The proposed development would result in a two storey rear extension

extending marginally beyond the rear elevation of The Tree House and on approximately the same alignment as the northern flank wall, although the plans indicate that it may be very slightly set in from that wall.

7. The Tree House has 3 windows in its southern flank wall. The first floor window is already impacted by the proximity of Little Foxes and I do not consider there would be any further effect arising from the proposed development. One ground floor flank wall window serves a utility area and currently has restricted natural light, also owing to the proximity of Little Foxes. Although it would be further affected as a result of the proposal I do not consider that would be sufficient to justify the appeal being dismissed bearing in mind it is not a habitable room.
8. The other ground floor flank window serves a dining area located at the rear of a long kitchen/diner in The Tree House. There is also a rear facing window which serves the kitchen area. The dining area is clearly actively used as part of the habitable accommodation, notwithstanding that there is an additional dining room, with adequate space for a sizeable table and 4 chairs. On the day of my site visit, it was heavily overcast and there was restricted natural light reaching the dining area, despite the presence of the rear facing window. In my view, the proposed two storey extension, because of its height and proximity to the common boundary, would result in a significant loss of natural light from reaching that area. It would also result in a reduction in natural light from reaching the hallway, although I regard that of lesser concern. I note the appellant's reference to the relationship between the two properties and the affected windows on plan form as set out in the grounds of appeal, and the planning officers reference to compliance with the 45 degree daylight assessment, as referred to in the officer report, but that does not alter my actual findings on the site.
9. The rear of both properties are west facing and therefore likely to receive afternoon and evening sun, particularly in summer months when the sun is higher in the sky. I note the occupier of The Tree House has supplied photographs of the dining area receiving sunlight through the affected window and I consider it likely that such sunlight would be significantly reduced as a result of the proximity and height of the proposed extension. I attach little weight to the appellant's contention that as a breakfast area it would not receive morning easterly sun at present, since it is clearly capable of being actively used at different times of the day and for different purposes.
10. A combination of loss of natural light and sunlight leads me to find that there would be an adverse effect on the dining area and consequently on the living conditions of the occupiers of The Tree House to an extent which would be unacceptable.

Other Matters

11. Although both the appellant and the occupiers of The Tree House make reference to a previous application for a two storey rear extension¹ and issues considered at the time, I have reached my findings above based solely on the information and submitted plans before me in relation to the current appeal.

¹ Application ref 04/00275

12. The occupiers of The Tree House have also objected from a design point of view, raising concerns that the extension would be incongruous and discordant. However, whilst I note that the adjoining properties have hipped roofs, the appeal property has gables to either side and to the front, and in that respect the proposed double gable form of extension at the rear appears to be an appropriate design response. I also note the Council raises no objections in that respect.
13. Similarly, the Council raises no objections in terms of any adverse impact upon the occupiers of Half Moon House to the south, and having assessed that issue at my site visit, I see no reason to come to a different view.

Conclusion

14. For the reasons set out above the proposal would result in harm to the living conditions of the occupiers of The Tree House. It would therefore be contrary to Policies BE1 and BE6 in the Maldon District Replacement Local Plan 2005 and Policy D1 in the Pre Submission Local Development Plan 2014-2029, in that it would adversely affect the amenities of the occupiers of neighbouring property. Accordingly, the appeal should be dismissed.

Kim Bennett

INSPECTOR