

Appeal Decision

Site visit made on 5 January 2017

by Timothy C King BA(Hons) MRTPI

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

Decision date: 23rd January 2017

Appeal Ref: APP/M1595/D/16/3158222

27 Fleming Road, Chafford Hundred, Grays, RM16 6YA

- 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 Mrs Liana Mogaldea against the decision of Thurrock Borough Council.
 - The application Ref 16/00963/HHA dated 11 July 2016, was refused by notice dated 5 September 2016.
 - The development proposed is '*Rear garden shed.*'
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey, timber-framed, outbuilding at 27 Fleming Road, Chafford Hundred, Grays, RM16 6YA, in accordance with the terms of the application Ref 16/00963/HHA, dated 11 July 2016.

Procedural Matter

2. The Council, in its decision notice, refers to the development as being that of the shed's retention. I can confirm from my site visit that the structure in situ is correctly represented by the submitted plans and, in reaching my decision, I have assessed the development as though it was a proposal. I have also reworded the development to better describe the structure at issue.

Main Issue

3. The main issue in this appeal is the proposal's effect on the living conditions of neighbouring occupiers, with particular regard to those at No 12 Francisco Close.

Reasons

4. The development involves the erection of a substantial, timber-framed structure, running almost the full width of the property's rear garden at its far end. The structure appears to abut the rear wall of the side garage belonging to No 12 Francisco Close. Approximately 2.5m in height at its frontage the outbuilding's roof slopes downwards so that its rear wooden panels, which lie very close to the common garden fence with No 12 drop to a height of some 2.28m. As such, the structure's rear sits slightly above the standard height boundary fence.
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5. The Council's primary concern is that the development gives rise to a loss of light to the ground floor windows of No 12 and, to this end, I find that Policy PMD1 of the Thurrock Local Development Core Strategy and Policies for Management of Development (LDCS) is most relevant. This policy serves, amongst other things, to protect the amenities of surrounding occupiers and indicates that development will not be permitted where it would have unacceptable effects on the amenities of neighbouring occupants. This requirement is reflected in Annexe A1 of the Thurrock Borough Local Plan (LP) from which certain policies and guidelines remain saved for the Council's planning purposes. The Annexe is concerned with the control of development in residential areas and as regards a development's effect on neighbours it comments, in part, that this should not cause overshadowing resulting in serious loss of daylight or sunlight to important living, garden or amenity areas.
6. On the day of my site visit I reached the appeal site at approximately 1pm and noted from looking over the fence that there was a small degree of overshadowing of No 12's rear garden consequent from the structure's height additional to that of the fence. However, No 12's rear garden faces due south and early January is when the sun is very low in the sky. Although the structure projects to a significant depth close to the boundary, given that its height over and above that of the fence is limited, I do not reasonably consider that it should be assessed as a single storey rear extension. In the particular contextual setting I find that the effect is such as to not cause any serious or unacceptable effects in terms of a consequential loss of light to No 12's rear conservatory.
7. I thereby conclude that the proposal would not be harmful to the living conditions of neighbouring occupiers and it is not in material conflict with either the aims of LDCS Policies PMD1 and PMD2 nor LP Annexe A1.
8. For the above reasons, and having had regard to all matters raised, the appeal succeeds. As the original planning application was retrospective, and I find the outbuilding to be of satisfactory appearance, no conditions need be imposed.

Timothy C King

INSPECTOR