

Appeal Decision

Site visit made on 7 February 2017

by J Bell-Williamson MA MRTPI

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

Decision date: 22 February 2017

Appeal Ref: APP/X1545/D/16/3161573

6 Narvik Close, Maldon, Essex CM9 6UX

- 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 Steve Mosey against the decision of Maldon District Council.
 - The application Ref HOUSE/MAL/16/00726, dated 15 June 2016, was refused by notice dated 23 September 2016.
 - The development proposed is two storey side extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of nearby residents, with regard to privacy, outlook, daylight and sunlight.

Reasons

3. The appeal property is a two storey detached dwelling in a residential close of similar property types. This proposal is a resubmission following withdrawal of an application for a similar form of extension (ref HOUSE/MAL/16/00228). While I note the appellant's comment that the current proposal has resulted from engagement with the Council to overcome concerns about the previous scheme, this appeal involves a separate development proposal which I have considered on its own merits.
 4. The detached dwellings on Narvik Close are arranged in an informal, spacious layout. This is in contrast to the neighbouring properties immediately to the north on Longship Way, which are positioned on a more traditional linear alignment. This contrast is seen particularly in the angled position of the appeal property relative to the rear boundaries of the Longship Way dwellings.
 5. From the existing upper floor windows of No 6 the most direct views are towards Nos 37 and 39 Longship Way. The depth of the back-to-back gardens as well as the forward position of No 37 compared to its neighbours ensures a good degree of separation between properties.
 6. The eastward extension across two storeys would add a window near to the rear boundary of No 35, which is closer to the appeal property than the boundaries of Nos 37 and 39. The most direct views from within the new
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- bedroom through this window would be towards No 37, but due to the proximity to the boundary with No 35, it would also be possible from closer to the window to see the rear of this neighbouring dwelling and its garden.
7. The main parties and interested neighbours refer to different figures for the likely separation distance between the extended property and No 35, and to the implications of these distances in relation to relevant guidelines on protecting residential amenity. While I note these various figures, the lack of consensus serves to illustrate that such precise measurements should not be the principal basis for reaching a judgement of the effects of the proposed development.
 8. In this regard I was able to view the position of the proposed extension from No 35's back garden. Despite some screening to the rear of the garden, the close proximity of the extended dwelling and position of the upper floor window, would provide the potential for overlooking the rear windows, conservatory and garden of No 35. The proximity of this additional development would be in contrast to the otherwise spacious aspect and good separation between properties and would lead to a harmful loss of privacy for the neighbouring occupiers.
 9. I accept that some views of neighbouring gardens are not uncommon in suburban areas such as this, and this already occurs due to the relationship between some properties in the surrounding area. However, this does not justify the specific harm that would arise from this particular proposal. While the new bedroom is intended for sleeping, it is a habitable room and, furthermore, it could in future be used for other purposes. Despite these findings, I acknowledge the appellant's contention that obscured glass could be required for the window by condition. While this is not always an ideal solution with regard to the occupiers' outlook from the room, I accept that in this case it would overcome the harm with regard to loss of privacy.
 10. The occupiers of No 35 currently have largely open views from their conservatory and back garden across the fence, with No 6 positioned to one side. This is in keeping with the spacious and open layout of properties on Narvik Close. The angled position of the proposed two storey extension would infill most of the currently open space seen from the rear of No 35. As such, it would impede the existing open views as well as bringing built development much closer to the shared boundary. Consequently, despite the small tree in No 35's garden, the extension would appear as prominent and overbearing, and would particularly harm the outlook from No 35's relatively modest rear garden to the detriment of its reasonable use and enjoyment. I have considered whether boundary landscaping required by condition could help overcome these effects, but the necessary height and extent of this would of itself be an incongruous and uncharacteristic feature in the otherwise open setting.
 11. With regard to the effects on daylight and sunlight, the appellant has submitted drawings showing the effect of the extension at various times of day and year. This demonstrates that with the extension in place there would be little additional overshadowing of neighbouring gardens. Similarly, given the dwellings' positions relative to each other, the amount of daylight reaching the

rear of the nearest properties would not be affected by the extension. Consequently, I find no harm in this regard.

12. I acknowledge the appellant's contention that Council officers recommended that the proposal should be approved. I have, however, determined the appeal on its merits based on all the appeal submissions and site inspection.
13. Accordingly, for the reasons given, I conclude that the proposal would have an unacceptably harmful effect on the living conditions of nearby residents, specifically the occupiers of No 35 Longship Way, with regard to outlook. There would be no such harm, however, with regard to daylight and sunlight, and with an appropriate condition in place, with regard to privacy. Nonetheless, the specific harm that has been found is not outweighed by the findings in the proposal's favour. It is, therefore, contrary to Policy BE1 of the adopted Maldon District Replacement Local Plan (the RLP) concerning the design of new development, and to Policy BE6 of the RLP concerning extensions to existing dwellings, both of which policies require development not to harm amenities of neighbouring occupiers. These policies are consistent with the National Planning Policy Framework.
14. The Council also refers to Policy D1 of the submission Maldon District Local Development Plan (the LDP). The Secretary of State directed in June 2015 that the plan should be submitted to him for consideration and subsequently indicated in March 2016 that examination of the LDP would be resumed. The Council contends that due weight should now be given to the emerging plan. However, it is not fully clear from the information provided what scope the current examination has and what bearing, if any, it might have with regard to any potential changes to the particular policy referred to by the Council. Accordingly, for this reason, I give the LDP policy limited weight for the purposes of this appeal and instead have relied on the RLP policies referred to by the Council.
15. I have had regard to all the representations made by interested parties, both in support of and opposing the proposal. These do not, however, raise any additional matters in relation to the main issues in this appeal that would lead me to reach a different overall conclusion.
16. For the reasons given above and having regard to all other matters raised, it is concluded that the appeal should not succeed.

J Bell-Williamson

INSPECTOR