

## Appeal Decision

Site visit made on 19 November 2019

**by Patrick Hanna MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23<sup>rd</sup> December 2019**

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**Appeal Ref: APP/V1505/D/19/3238396**

**10 Leysings, Basildon SS16 5SL**

- 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 T Barker against the decision of Basildon Borough Council.
  - The application Ref 19/00476/FULL, dated 1 April 2019, was refused by notice dated 23 August 2019.
  - The development proposed is ground floor rear extension infill and raised patio level.
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### Decision

1. The appeal is allowed and planning permission is granted for ground floor rear extension infill and raised patio level at 10 Leysings, Basildon SS16 5SL in accordance with the terms of the application, Ref 19/00476/FULL, dated 1 April 2019, and the plans submitted with it.

### Procedural Matter

2. The development has been completed and an enforcement notice has been served by the Council. However, the current appeal relates only to the refusal of planning permission. I have determined the appeal on that basis.

### Main Issues

3. The main issues are the effect of the proposed patio on the:
  - (a) character and appearance of the host dwelling and its surroundings; and
  - (b) living conditions of occupants of Nos 9 and 11 Leysings.

### Reasons

#### *Character and appearance*

4. The appeal site is a two-storey detached dwelling, located within a predominantly residential area. The building line is staggered at the rear, with gardens sloping down away from the dwelling. Notwithstanding the Council's description of significant level changes, I found that the appeal garden is approximately level with that at No 11 and slightly higher than that at No 9.
5. The effect of the proposal would be to introduce a patio at a level higher than the original garden level, with three steps down to lawn level, and an edging wall of some 1.185 metre in height. Designed to provide level access to the dwelling, I consequently do not find the patio would have a poor relationship with the host dwelling. Similarly, its modest height would also relate appropriately with the garden. My site visit was limited to the appeal site itself,

however, boundary fences of approximately 1.6 to 1.8 metres in height between the appeal site and the neighbouring gardens of Nos 9 and 11 are such that views of the patio would be heavily restricted. Accordingly, the patio would not be seen as overbearing or intrusive from these locations.

6. I conclude that the proposed patio would not have a significant adverse effect on the character and appearance of the host dwelling and its surroundings. Accordingly, the proposal complies with saved policy BAS BE12 of the Basildon District Local Plan (2007)(BDLP), emerging policies DES1 and DES4 of the Basildon Borough Local Plan (BBLP) which, whilst more detailed, are not substantially different from adopted policy in respect of this proposal, and the National Planning Policy Framework (the Framework). Together these policies seek to ensure that harm is not caused to the character of the surrounding area and the street scene.

#### *Living conditions*

7. The patio would introduce an outdoor space on a raised platform. Towards No 9, only very restricted views would be available from the proposed patio to parts of the neighbouring garden, which is largely screened by existing landscaping. With regard to No 11, the boundary fence along the patio is currently approximately 1.6 metres high, such that taller persons would be able to look over and gain some glimpsed views towards the rear windows and the garden. Nonetheless, I am mindful of the considerable level of existing overlooking that exists between the three properties. Taking these factors into account, my observations are that the reasonable occasional use of the patio by taller persons would not worsen levels of privacy to a harmful degree.
8. I conclude that the proposed development would not have a significant adverse effect on living conditions of occupants of Nos 9 and 11 Leysings. As such, the proposal complies with saved policy BAS BE12 of the BDLP, emerging policy DES1 of the BBLP which, again, is not substantially different from adopted policy, and the Framework, which requires development to not cause harm by way of overlooking.

#### *Other matters*

9. Notwithstanding that the works have been carried out without planning permission, I have assessed the proposal on its merits. Matters relating to access for maintenance, construction methods, and party walls are not within my jurisdiction in determining this S78 appeal. Surface water drainage provision has been made in the form of a drain sited centrally on the patio. Whilst I have no details of capacity or outfall, I see no evidence to suggest that harm would be caused to neighbouring properties.

#### **Conclusion**

10. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

*Patrick Hanna*

INSPECTOR