



Appeal Decision

Site visit made on 10 March 2020

by J Hunter BA (Hons) Msc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th April 2020

Appeal Ref: APP/H1515/D/19/3243360

16 Crescent Road, Warley, Brentwood, Essex CM14 5JR

- 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 Adam Davis against the decision of Brentwood Borough Council.
 - The application Ref 19/01415/FUL, dated 10 October 2019, was refused by notice dated 29 November 2019.
 - The development proposed is single storey flat roof rear 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 the occupiers of no. 18 Crescent Road with reference to outlook and light.

Reasons

3. There is an existing two storey outrigger at the rear of the appeal property that covers around half the width of the rear elevation. This is mirrored on the adjoining property no 18 Crescent Road but with an additional lean-to extension to the gable end. At the appeal property, the space between the outrigger and the shared boundary has been infilled with a single storey extension. This existing arrangement means that on the shared boundary the rear wall of the appeal property already sits forward of the ground floor window of no 18 Crescent Road by around 3 metres.
4. The proposed extension would project from the existing rear wall by approximately 3.5 metres, it would be around 3 metres high and would therefore increase the height of the existing shared boundary treatment by approximately 1 metre. I consider that the proposal, by virtue of its scale and proximity to the shared boundary would have a significantly overbearing effect on the occupiers of no. 18 Crescent Road and in this regard I concur with the Council's assessment that the proposal would have a detrimental effect on outlook thereby causing harm to the living conditions of the adjoining occupiers.
5. I acknowledge the appellant's comments about varied character that is derived from the different rear elevations and relationships between the properties in the location and their specific reference to Hibbard House. Whilst it is accepted that Hibbard House projects further than the rear wall of the appeal property,

the relationship between the properties is different. The proposal would create a 'tunnelling' effect between the proposed extension and the outrigger of no 18 Crescent Road. The gable wall of Hibbard House projects around 2 metres beyond the existing rear wall of the appeal property but the aspect is otherwise open.

6. The appellant has drawn my attention to a similar proposal within the immediate vicinity of the appeal site. I do not have the full details of this development or the circumstances under which it was permitted. However, based on the information I have been provided I can see that the extension at no 26 Crescent Road has a different configuration to the one that is subject of this appeal. Nonetheless, I must determine this appeal on its own merits and the presence of other similar developments does not justify further harm.
7. The Council has raised concerns regarding potential overshadowing, I do not share their concerns in this regard. Due to the north westerly orientation of the properties, during the earlier part of the day, the proposed extension would cast some shadow over the rear ground floor window of no 18 Crescent Road. However, as the sun moves round and indeed for most of the day the existing outrigger at no 18 Crescent Road casts shadow over the ground floor window. Therefore, due to the existing orientation of the properties I do not consider that the proposal would have a significantly detrimental effect on the amount of daylight entering no 18 Crescent Road.
8. I acknowledge the Council's reference to '*the commonly used '45-degree approach'*' but whilst it may be the case that some Councils have policies that make reference to a 45 degree approach, that is not the case in respect of the development plan for this area. I have therefore considered this appeal on its individual merits and have exercised my own judgement in respect of living conditions matters.
9. Accordingly, I have not identified harm in relation to the living conditions of the occupiers of no. 18 Crescent Road having regard to daylight. However, I have concluded that the proposal would cause significant harm in relation to outlook. Consequently, the proposal fails to accord with the living condition requirements of Policy CP1 (ii) of Brentwood Replacement Local Plan (2005).

Other Matters

10. The appellant has referred to the possibility of exercising residential permitted development rights including an up to 6 metre extension. I do not know if the appellant would exercise such permitted development rights if planning permission was to be refused. In any event, the proposal requires planning permission. I have determined this appeal on its individual planning merits and the existence of a theoretical permitted development fall back scheme does not alter or outweigh my conclusion on this main issue.

Conclusion

11. For the reasons outlined above and taking into account all other matters raised I conclude the appeal should be dismissed.

J. Hunter

INSPECTOR