



## Appeal Decision

Site visit made on 8 September 2020

**by Graeme Robbie BA(Hons) BPI MRTPI**

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

**Decision date: 22 September 2020**

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**Appeal Ref: APP/C1570/D/20/3253131**

**18 Farmadine Grove, Saffron Walden CB11 3DR**

- 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 Alan Hills against the decision of Uttlesford District Council.
  - The application Ref UTT/20/0392/HHF, dated 16 February 2020, was refused by notice dated 3 April 2020.
  - The development proposed is extension to first floor of an existing bungalow.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effects of the proposed development upon:
  - The living conditions of occupiers of neighbouring properties, with particular regard to privacy and outlook; and
  - The character and appearance of the host building and the surrounding area.

### Reasons

#### *Living conditions*

3. The existing bungalow is positioned diagonally across its plot. It is evident from observation of the site and from the site location plan that the appeal site's residential plot is reasonably generous in the context of some of those that surround it, even if the building itself occupies a substantial footprint area. However, because of its orientation within the plot it is closer to some parts of the plot boundary than other parts and sits at a range of angles to surrounding properties.
4. The Essex Design Guide (EDG) sets out the approach to privacy between dwellings and for private sitting-out areas. To this end, a range of separation distances and angles between the rear faces of dwellings are referred to. The EDG also notes that overlooking may be avoided by remoteness, design or a combination of the two.
5. It is agreed by the parties that the existing dwelling sits at an angle of more than 30° relative to the rear elevations of surrounding properties. As such, the EDG advises that a minimum spacing threshold of 15 metres from the nearest corner is applicable in consideration of the proposed extension.

6. Although the Council contend that 2 Butler Close and 29 Victoria Avenue are closer to the proposed extension than the EDG's 15m minimum separation distance, no exact figures of these distances have been provided by the Council to substantiate this position. The appellants have however submitted a dimensioned plan which shows that the closest point of the extension would be considerably closer to the rear of No. 2 than the EDG threshold, but in relation to the other properties identified above<sup>1</sup>, the 15m separation distance would be exceeded.
7. Relative to the surrounding properties, the appeal property sits significantly below the ground levels of 29 and 31 Victoria Avenue and, to varying degrees, above the ground levels of 1 and 2 Butler Close and 16a and 17 Farmadine Grove. Although an extension at the rear of No. 2 brings the closest point of that dwelling well within a 15m separation distance, the angle between it and the proposed extension, lower ground levels and proximity to the retaining wall and garden fence are such that the proposed extension would not materially or adversely overlook, or result in a loss of privacy to, the rear of that property.
8. Conversely however, those properties which are shown to be more than 15m away from the proposed extension would be more affected by the proposal. The property at 1 Butler Close would be more directly in line with the proposed rear elevation than No.2, and so the combination of the appeal site's higher ground levels relative to No. 1 and the added height of the proposed first floor would be such that the first floor windows would be highly visible and dominant features on the extended rear elevation.
9. So too with regard to the relationship between the extension's rear face and the rears of 29 and 31 Victoria Avenue. Although offset at varying angles from the rear of the appeal property, the proposed extension would increase inter-visibility between the three properties at upper floor levels. Furthermore, the extension's first floor windows would be prominently located in an elevated position and be a constant reminder of the potential for loss of privacy which they present. Whilst ground floor inter-visibility is restricted by the existing garden fence, the proposed first floor windows would be in direct line of site from the rears of Nos 29 and 31 and would reinforce the sense and potential of being overlooked.
10. Finally, with regard to 17 Farmadine Grove, intervening vegetation mitigates to a degree the inter-visibility between the two and would continue to do so in the event of the extension proceeding. However, the degree of screening provided will vary according to season and could not be relied upon continuously, whilst the extension's closest window would be particularly close to the rear garden of No. 17.
11. Thus, to the varying degrees set out above, the presence of windows in elevated positions at first floor level in the extended dwelling would be significant and dominant features and a constant reminder to occupiers of surrounding properties of occupation and usage of an elevated upper floor. The introduction of large windows in these elevated first floor positions would, because of the interplay of ground levels and proximity between the various properties, result in the overlooking of habitable windows and private garden areas in a manner that would cause material harm to the amenities of occupiers of these properties.

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<sup>1</sup> And, additionally, 27 Victoria Avenue

12. The appellants have proposed various measures to mitigate the presence of these windows. The use of obscure glazing in bathroom windows would perhaps be expected, the landing less so, but nonetheless could reasonably be ensured by condition.
13. However, the use of louvred detailing to bedroom windows to restrict outward views in a downward direction and varied sill heights up to 1800mm above floor level, approximately eye-level, have also been set out on revised extracts of plans submitted with the appeal. Setting aside for a moment that these were not submitted with the initial application and not therefore considered by the Council, I have no further detail regarding the louvres and cannot be certain whether or not they would indeed resolve the issue that they set out to resolve.
14. Nor, without the benefit of relevant sectional drawings, is it clear from the submitted plans and elevations how the sill heights would resolve concerns regarding overlooking and inter-visibility. Thus, without a clear demonstration, and therefore understanding of, the proposed levels within the rooms served by the various dwellings that such sectional drawings would provide, the loss of privacy for occupiers of neighbouring properties cannot be discounted. Nor would these measures fully resolve the very clear perception of occupiers of neighbouring properties of being overlooked which would arise from the installation of windows in elevated positions on the appeal property.
15. For these reasons, I am not persuaded that the proposed extension would not result in a result of loss of privacy to, and the overlooking of, the rears and rear garden areas, of neighbouring properties at 29 and 31 Victoria Avenue, 17 Farmadine Grove and 1 and 2 Butler Close. The proposed extension would result in both actual and perceived overlooking and loss of privacy and as such would have a materially adverse effect on the reasonable enjoyment of neighbouring residential properties which would arise as. The proposal would be contrary to Uttlesford Local Plan policies GEN2 and H8. Although now of some age, these policies are broadly consistent with the Framework's aims of achieving well designed places with a high standard of amenity for existing and future users.
16. With regard to outlook and whether or not the proposed extension would have an overbearing effect upon those properties surrounding it seems to me that the guidance regarding separation distances set out in the EDG seeks to protect privacy and avoid overlooking, rather than outlook and daylight. The Council's 'Supplementary Planning Document – Home Extensions' (SPD) does consider these matters but not in the manner of the EDG in terms of separation distances.
17. In these terms, the additional height of the proposed extension would be felt most keenly from 1 and 2 Butler Close, where the lower ground levels of those properties would exacerbate the additional height created by the proposed extension. Although broken up by the extension's butterfly roof design, the mass and height of the extended rear elevation would nonetheless have a reasonably imposing presence when viewed from the rear of Nos. 1 and 2. However, I am not persuaded that, in either case, this is fatal to the proposal. Both properties would look out across the face of the extended rear (in the case of No. 1) and side elevations (in the case of No. 2).

18. With regard to No. 1, there would remain a reasonably lengthy and open between the proposed extension and the retaining walls and garden structures of properties on Victoria Avenue. With regard to No. 2, the existing retaining wall and fence is already likely to be a far greater factor in the outlook from that property, particularly its rear extension which is closest to the wall and fence, than the proposed extension would be. Elsewhere from the rear of No. 2, I am satisfied that the increased distances, intervening structures and receding roofline of the proposed extension would be such that the proposal would not cause sufficient harm to outlook to warrant dismissal of the appeal on those terms.

*Character and appearance*

19. The Council consider the proposal's 'butterfly' roof design to be a contemporary improvement to No. 18 which would add to the appearance of both the host property and the surrounding area. I agree. The proposed extension and its visually stimulating roofline would add interest to the existing building. Already something of an outlier in terms of its appearance, scale, design and materials, the proposal would successfully update the appearance of No. 18 in a manner true to its existing somewhat idiosyncratic appearance.
20. When compared to the existing bungalow, the proposed extension would appear very clearly as an extension to No. 18. However, I see no reason in development plan policy terms why such an approach would not be appropriate, particularly when the result would be a dwelling of contemporary style, design and appearance.
21. Furthermore, the surrounding area is mixed in terms of the age, scale, form, design and appearance of nearby dwellings. The proposed extension would maintain No. 18's presence as a distinctive outlier in an area already marked by a mix of traditional vernacular architecture and more recently built residential developments. In such a context, the proposed extension to create a two-storey property would not be so out of keeping in terms of scale, character or appearance as to warrant refusal.
22. The Council's concerns, at least in part, seem to me to be linked to the proposed extension's dimensions being closer to a previously refused scheme than to those of the existing bungalow. This is expressed particularly in terms of a comparison of eaves and ridge heights.
23. The substantial width of the existing bungalow, orientated diagonally across the plot, is exacerbated by its all-encompassing pitched roof design which gives it squat but wide proportions. There is a difference in the height increases at eaves and ridge levels cited by the main parties, but the quoted figures for overall eaves and ridge height by both parties are broadly similar, in the region of 5 metres and 7.5 metre in height, respectively. Regardless of which party's figures are taken, the building's width is such that an increase in height in the region suggested would be capable of being successfully absorbed by the building without appearing out of scale or awkward. It may not be subservient to the existing bungalow, in that it would add a first floor where there isn't currently one and also alter the roofline, but the extended dwelling would look no less 'natural' within the context of the surrounding properties and area than the existing does.

24. For these reasons, insofar as the provisions of Uttlesford Local Plan policies GEN2 and H8 relate to matters of character and appearance, I am satisfied that the proposed extension would broadly align with these policies. The proposed extension would result in a dwelling of distinctive, contemporary design and would align with the aims of these policies and the Council's 'Supplementary Planning Document – Home Extensions'<sup>2</sup> and the Framework of securing development of the highest standard of design.

### **Conclusion**

25. I have concluded that the appellants' approach to the design of the proposed extension would be appropriate to the character of the host building and not out of context with the character or appearance of the surrounding area. Nor am I persuaded that the scale of the proposed extension would cause material harm to the outlook from neighbouring properties. The absence of harm in these respects are neutral factors which neither weigh in favour of, nor against, the proposal.
26. However, the confined nature of the appeal site, the additional prominence of first floor windows due to the height and elevated position of the extension and relative proximity of the extension to surrounding properties would give rise to actual and perceived overlooking of and loss of privacy to those properties. This would be to the detriment of the amenities and living conditions of occupiers of those properties, would be materially and adversely harmed as a consequence and it has not been demonstrated that these matters could be satisfactorily addressed through the use of planning conditions. For these reasons, having considered all other matters raised, I conclude that the appeal should be dismissed.

*Graeme Robbie*

INSPECTOR

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<sup>2</sup> Adopted November 2005