

Appeal Decision

Site visit made on 20 October 2020

by K E Down MA(Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date:

Appeal Ref: APP/H1515/D/20/3248181
197 Roman Road, Mountnessing, CM15 0UG

- 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 Barry Woodcock against the decision of Brentwood Borough Council.
 - The application Ref 19/01574/FUL, dated 11 November 2019, was refused by notice dated 31 December 2019.
 - The development proposed is demolition of conservatory and removal of roof and construction of ground and first floor rear extension with new roof and reconfiguration of internal layout with material changes to elevations.
-

Decision

1. The appeal is dismissed.

Main Issue

2. There is one main issue which is the effect of the proposed first floor rear extension on the living conditions of occupiers at 8 and 9 Church Crescent with respect to overlooking and privacy.

Reasons

3. The appeal dwelling is a two storey detached property set between a public house and a pair of cottages. At the time of my site visit it was undergoing extensive alterations and extensions which are understood to have been permitted by the Council. These include a single storey rear extension in place of the original conservatory which has been demolished.
 4. The appeal proposal differs from what has been permitted and is being built in that it includes a first floor above the single storey rear extension. This would have a depth of some 3.8m and finish in line with the rear elevation of the single storey extension. It would provide one bedroom with two rear facing windows.
 5. The distance between these windows and the rear elevations of the dwellings to the rear in Church Crescent would be some 25.5m according to the appellant and about 25m according to the Council. The appeal dwelling lies on land noticeably lower than the dwellings in Church Crescent. A high, close boarded fence has been erected on the boundary between the properties.
-

6. The proposed windows would have an outlook towards the rear living rooms of the dwellings in Church Crescent. The degree of overlooking of ground floor rooms would be exacerbated by the difference in levels, leading to a material loss of privacy. Appendix 1 of the Brentwood Replacement Local Plan (LP), 2005, expects a separation distance of at least 35m between properties where a living room is overlooked. This standard would be breached by a significant margin in the case of the appeal proposal.
7. The appellant points out that the standards set out in Appendix 1 were taken from the Essex Design Guide for Residential and Mixed Use Areas and that this document has been updated since the adoption of the LP. Extracts from the latest version of the design guide dated 2018 are submitted in evidence. This version of the guide suggests that a minimum distance of 25m between the rears of properties is required. Nevertheless, this is a minimum standard and the guide states that requirements may differ between local planning authorities.
8. The appellant refers to the emerging Brentwood Local Plan (2019) and states that this refers only to the avoidance of excessive overlooking and to best practice as set out in the Essex Design Guide. However, this plan has yet to be examined and can only be afforded limited weight. This would thus not amount to a reason to deviate from the adopted LP.
9. Finally, the appellant notes that the neighbouring cottages have first floor rear windows that are as close to dwellings in Church Crescent as the proposed rear windows at the appeal site. However, these properties are set down at a lower level and are small, having a ridge height approximately level with the eaves at No 197. Moreover, the first floor at the rear is contained wholly within the roof space. It was not possible to see the backs of both cottages clearly but at the cottage adjacent to the appeal dwelling I could see only a roof light which would not allow direct sight lines between opposing windows. The other cottage appears to have small dormer windows but, owing to its limited height and the difference in levels between these and the houses in Church Crescent, these are unlikely to result in any material overlooking.
10. It is therefore concluded on the main issue that the proposed first floor rear extension would have a materially harmful effect on the living conditions of occupiers of 8 and 9 Church Crescent with respect to overlooking and loss of privacy. In consequence it would conflict with LP Policy CP1 ii) and with the National Planning Policy Framework which, taken together, expect new development to provide a high standard of amenity for existing and future users such that it does not have an unacceptable detrimental impact on the general amenities of nearby occupiers with respect to, amongst other things, lack of privacy.
11. For the reasons set out above and having regard to all other matters raised, including that the permitted first floor windows are some 29m from dwellings to the rear, I conclude that the appeal should be dismissed.

KE Down
INSPECTOR