
Appeal Decision

Site visit made on 9 November 2020

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2020

Appeal Ref: APP/V1505/D/20/3248531

25 Longfield Road, Shotgate, Wickford, SS11 8PU

- 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 Alex Cattermole against the decision of Basildon Borough Council.
 - The application Ref 19/01539/FULL, dated 5 November 2019, was refused by notice dated 31 January 2020.
 - The development proposed is a two storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a two storey rear extension at 25 Longfield Road, Shotgate, Wickford, SS11 8PU in accordance with the terms of the application, Ref 19/01539/FULL, dated 5 November 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:1250 site location plan, proposed elevations Ref. LR-P-E-202 Rev A, proposed floor and roof plans Ref. LR-P-E-201 Rev A and proposed block plan Ref. LR-P-E-203 Rev A.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

2. The main issue is the effect of the development on the living conditions of occupiers of the adjoining dwelling (No. 27 Longfield Road) with particular regard to overshadowing and over-dominance.

Reasons

3. The crux of the council's case is that the proposed extension would conflict with the Basildon District Council Development Control Guidelines (as amended March 1997). This supplementary planning document (SPD) does not form part of the development plan but is a material consideration. The guidance advises that two-storey or first floor extensions should not infringe on a line drawn at 45 degrees horizontally from the nearest edge of the window of the

closest ground floor habitable room of the adjoining residential property. This is otherwise known as the 45 degree code.

4. I have not been provided with any scale drawings that show the edge of the nearest ground floor window of the adjoining property or that show the 45 degree line. I have therefore reached a decision based upon the information before me and observations made during my site visit.
5. It was evident from my site visit that the adjoining dwelling mirrors that of the appeal property. At the ground floor level the nearest openings are a small kitchen window and door. The top of the existing boundary fence is almost level with the top of the window and door. Although kitchens are habitable rooms, it is apparent that these houses have a small kitchen and a separate dining room, which is located further away from the boundary. At first floor level the nearest neighbouring window is to a bathroom and is obscure glazed.
6. The single storey element of the proposal does not need to be assessed against the 45 degree code. I acknowledge that a single storey extension projecting 6m from the rear boundary could be constructed under permitted development rights, without the prior approval of the council, subject to no neighbour objections being received and the relevant criteria being complied with. The appeal proposal extends only 5m from the rear of the house and no neighbours have objected. Moreover the flat roof extension would only be approximately 800mm higher than the existing boundary fence and as such, its impact on No. 27 would be very marginally different to the current situation.
7. The two-storey element of the proposal would project only 3m from the rear of the dwelling and would be 2m from the boundary with No. 27. Even if this two-storey part of the extension would encroach into the 45 degree zone, it would be marginally so. The neighbours have not objected and the nearest windows do not appear to be to primary living areas. Again, as pointed out by the appellant, a very similar two-storey extension could be constructed under permitted development rights and this is a material consideration of significant weight.
8. The main living/dining room and bedroom room windows to No.27 appear to be set away from the shared boundary and the property enjoys a good sized rear garden. The single storey element of the proposal would be barely visible behind the existing boundary treatment and the much smaller two-storey part of the proposal, due to its scale, distance from the boundary and distance from main habitable room windows would not appear over-dominant and would not result in an unacceptable level of overshadowing, loss of light or outlook.
9. I therefore conclude that the proposal would not result in a materially harmful impact on residents of the adjoining dwelling. Accordingly it would not conflict with policy BAS BE12 of the Basildon District Local Plan Saved Policies (2007), which seeks to resist, amongst other things, development which causes material harm in terms of overshadowing or over-dominance. I also find no conflict with paragraph 130 of the National Planning Policy Framework, which states permission should be refused for development of poor design.
10. Any conflict with the 45 degree code set out in the SPD would be outweighed by the more recent changes to permitted development rights that would enable a very similar form of development to be undertaken on the appeal site.

Conditions

11. In addition to the standard time limit condition, it is necessary to impose a condition specifying the approved drawings as this provides certainty. In order to protect the character and appearance of the host property and the area, I have imposed a condition requiring matching external materials.

Conclusion

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

Rachael Bartlett

INSPECTOR