
Appeal Decision

Site visit made on 5 October 2021

by P. D. Biggers BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2021.

Appeal Ref: APP/Z1510/D/21/3276872
18 New Road, Rayne CM77 6TG.

- 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 Leanne Pharaoh against the decision of Braintree District Council.
 - The application 20/02093/HH, dated 8 December 2020, was refused by notice dated 23 March 2021.
 - The development proposed is single storey rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the period since the appeal was submitted the Government has published a revised version of the *National Planning Policy Framework* (The Framework). The revised Framework has not brought me to any different decision on the appeal and therefore I have not considered it necessary to invite the appeal parties to comment on the new document.

Main Issue

3. The main issue is whether the proposed development would have an adverse effect on the living conditions for the present and future occupants of No 19 New Road with regard to proximity, positioning and light levels.

Reasons

4. New Road where the appeal site is located, is fronted by residential development on the south side. The houses take a variety of forms but the pattern of development in the immediate vicinity of the appeal site is of three short terraces of two storey Victorian cottages in brick with attractive frontage detailing and slate roofs.
5. To the rear of the short terrace containing the appeal property the cottages have two storey rear offshoots paired with the neighbouring property with a catslide roof connecting into the main roof. These are not full width offshoots so there is an indented return between them with windows providing light to habitable rooms in each main house facing into the small rear yards. No 18 also has a single storey flat roofed kitchen extension attached to the rear offshoot and appeared to be the only cottage with this arrangement.
6. The proposed extension would not extend any deeper than the existing single storey section but would extend the full width of the property and wrap around the existing offshoot infilling the whole of the return up to the

boundary with No 19 New Road. The whole would be roofed with a monopitch glazed roof with height at the highest point of about 3.0 metres and eaves level set at approximately 2.4 metres.

7. In respect of the relationship to No 17 to the east, because the single storey extension already exists and the depth of the new extension would be unchanged, the only difference would be the addition of the shallow pitched monopitch roof. The impact of this change on the living conditions for occupants on that east side would be unlikely to be affected to any degree.
8. However, with regard to the relationship to No 19 to the west the impact would be greater. The positioning of the western wall to the proposed extension on the boundary would result in a wall approximately 4.9 metres long by 2.4 metres in height with eaves and sloping roof on top adjacent to No 19's rear living room window.
9. The Council, as with other Essex authorities, applies the advice of the *Essex Design Guide* which advises developments to observe the 45° rule used to assess the potential for an extension to obstruct light and restrict outlook. The rule advises that obstruction of light and outlook from an existing window is avoided if the extension does not result in the centre of the existing window being within a combined plan and section 45° overshadowing zone. In other words, the extension should not cross a notional line drawn at 45° horizontally and vertically from the centre point of No 19's window. In the horizontal plane the extension would breach the 45° line although I accept that in the vertical plane the extension would remain within the 45° line drawn from the window. Given that the existing two storey offshoot to No 17 and 18 will already reduce morning sunlight to the window I am satisfied that any additional morning sunlight lost as a result of the extension would be limited. There may be some additional light loss to the lower part of the window in the winter when the sun is lower in the south east but this would be likely to be minimal.
10. Notwithstanding my conclusion in respect of light, the breaching of the 45° line in the horizontal plane would result in an enclosing effect on the window from the proposed extension. It has been put to me that because a 1.8 metre high, close-boarded fence already runs along the boundary and is adjacent to the window in the rear elevation of No 19, the impact of the proposed extension would not be materially different. For a number of reasons I am not persuaded that this would be the case. First, the extension, even at eaves level, would be 0.6 metres higher than the existing fence and rise above the top of No 19's window. Secondly, for those looking out of the window in No 19, the appearance of the fence is currently a two dimensional structure with no depth to it and there would be a sense of openness behind the fence. This would be lost as a result of the extension and the higher, deeper structure as close to the window as proposed would have a significantly increased enclosing and overbearing effect.
11. I have been invited to conclude that because of the open aspect of the deep gardens to the south any feeling of enclosure would be minor. However, given the height and depth of the extension compared to the existing fence and the narrow nature of the garden I am not persuaded by this. It has been put to me that the availability of a private garden provides just as important an amenity as does light and outlook from a habitable room. However, one is not a substitute for the other and outlook from the rear living room window in this case remains a critical asset to be protected.

12. The Framework at paragraph 130 requires that developments must achieve a high standard of amenity for existing and future users amongst other things and in this respect the proposal fails. Policy RLP17 of the *Braintree Local Plan* (BLP) controlling extensions and alterations remains consistent with the Framework in requiring development to have no unacceptable adverse impact on the amenities of adjoining residential properties. Policy RLP90 of the BLP in respect of development generally makes a similar requirement that there should be no undue or unacceptable impact on the amenity of any nearby residential properties. Clearly it is to a degree a subjective call as to whether the impact is acceptable or unacceptable but in this case for the above reasons, i.e. principally the positioning, proximity, height at eaves and depth of extension, the proposal would have an unacceptable impact on the living conditions in respect of No 19 New Road and in particular on the outlook from the rear facing living room window.
13. I note that the occupants at No 19 have not objected to the proposal. However, I must assess the likely impact of the development on the living conditions of both existing and future occupiers of the property and the fact that the existing occupiers have not objected does not mean that there would be no impact on living conditions. I therefore attach little weight to the absence of objections from the neighbouring occupier at No 19.

Other Matters

14. I understand the appellant's wish to make sustainable and effective use of housing land, an objective which is encouraged by the Framework in Section 11. However, paragraph 130 in section 12 of the Framework states that developments should secure a high standard of amenity for existing and future users. As such, sustainable and effective use of the dwelling to create a rear extension infilling to the property boundary to create additional living space would not therefore outweigh the harm to the amenity of existing and future occupiers of No 19 New Road as a result of the proposal.

Conclusion

15. In reaching my decision I have had regard to the matters before me but for the reasons above the appeal should be dismissed.

P. D. Biggers

INSPECTOR