
Appeal Decision

Site visit made on 20 April 2022

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2022

Appeal Ref: APP/V1505/D/21/3279353

35 Trindehay, Basildon SS15 5DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Andrew Wallington against the decision of Basildon Borough Council.
 - The application Ref 21/00414/LDCP, dated 12 March 2021, was refused by notice dated 10 May 2021.
 - The development proposed is described on the application form as 'The proposal is 2nd floor addition'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application number listed above is that which was included on the Decision Notice. However, for the avoidance of doubt, the Council has confirmed that the correct reference number for the planning application was 21/00414/PAAS and reference 21/00414/LDCP was inserted on the Decision Notice as the result of a drafting error.
3. Under Article 3(1) and Class AA of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), planning permission is granted for the enlargement of a dwellinghouse by construction of additional storeys. The Council refused to grant prior approval in relation to paragraph AA.2 (3)(a)(i), making reference to the effect of the proposal on the amenity of adjoining premises in relation to loss of light, overlooking and loss of privacy.

Main Issue

4. The main issue in this appeal is whether prior approval should be granted under Class AA of Part 1 of Schedule 2 of the GPDO, having particular regard to the effect of the proposal on the amenity of adjoining premises, in relation to access to loss of light, overlooking and privacy.

Reasons

5. The Council considers that the proposed development would have a harmful effect upon the living conditions of the occupiers of residential properties to the north and east of the site, resulting from overlooking, loss of privacy and loss of light. The Council has not specified exactly which properties it is referring to.

Nonetheless, my site visit and an assessment of the evidence before me has enabled me to fully consider whether such effects exist and, if they do, whether they would have an unacceptable harmful impact on the amenity of neighbouring occupiers to the north and east of the appeal site.

6. 35 Trindehay (the Host Property) is a two-storey residential building, which forms part of a terrace. The layout of this part of the terrace is unusual in that it includes an L-shape. The Host Property is located in relatively close proximity to the junction of the L-Shape and the flats to the north of the site (27 and 29 Trindehay). The Host Property has a flat roof, whilst the adjoining properties have pitched roofs with a higher ridge height. As a result, the rear elevation of the flats to the north, particularly at ground floor level, is likely to already be overshadowed by the Host Property and the attached property (No. 31 and 33). It is likely that this overshadowing is more noticeable during periods later in the day. The appellant has provided an aerial photograph which he suggests indicates the extent of the existing overshadowing. However, it is not clear when this aerial image was taken. Indeed, degrees of overshadowing vary significantly between summer and winter.
7. In any event, the appellant acknowledges that the development will result in an increase in shading to its surroundings (albeit he indicates that this does not warrant the appeal being dismissed). I concur that the development would increase overshadowing during the latter part of the day. The proposed upwards extension would result in a new flat roof with a height approximately one metre in excess of the neighbouring pitched roofs. However, as the proposal is for a flat roof, this increased height would extend right up to the edges of the dwelling in contrast to the adjacent pitched roofs.
8. As a result, the proposed development would inevitably result in a significant increase in overshadowing of the flats to the north, including the rooms served by windows in the rear elevation and the area of outside space. The resultant loss of access to natural light would have a significant harmful impact upon the amenity of these neighbouring occupiers.
9. The occupiers of the attached property to the north would not suffer any significant loss of access to natural light, given that the orientation of this building is parallel to that of the host property. To the east there would not be such severe overshadowing given the significant distance between neighbouring dwellings to this side and the Host Property.
10. In terms of overlooking and privacy, the existing dwelling already includes several windows at first floor level which partly overlook neighbouring gardens. The proposed development would not significantly alter the existing overlooking, given that the windows proposed at 2nd floor level would be no closer to neighbouring properties than the existing 1st floor windows.
11. Nonetheless, the proposed development would result in a harmful loss of access to natural light for the occupiers of the flats to the north of the site. I therefore find that the proposal would not comply with paragraph AA.2(3)(a)(i) of Class AA of Part 1 of Schedule 2 of the GPDO, which relates to the impact on the amenity of any adjoining premises, including loss of light.

Other Matters

12. The extent to which the appearance of the proposed development is acceptable would not outweigh the harm caused to the amenity of neighbouring occupiers and it has a neutral effect in this regard.
13. The appellant has suggested that to allow this appeal would undermine the legislation contained within the GPDO. However, every case is treated with regard to the site-specific circumstances. In this case, the unusual layout of the terrace means that the impact of the proposed development would not be acceptable, given the orientation and close proximity of neighbouring residential properties.

Conclusion

14. For the reasons given above, I conclude that the appeal should be dismissed.

Luke Simpson

INSPECTOR