



Appeal Decision

Site visit made on 16 August 2022

by Sarah Colebourne MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2022

Appeal Ref: APP/J1535/D/22/3299925

15 Newnham Close, Loughton, Essex, IG10 4JG

- 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 Ms Izabela Honeyman against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/0047/22, dated 7 January 2022, was refused by notice dated 10 May 2022.
 - The development proposed is the retention of outbuilding at rear.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The Council's decision refers to policy DM9 in the Epping Forest District Local Plan Submission Version 2017 (LPSV) which relates to high quality design and requires that development proposals take account of the amenity of neighbours and must relate positively to their locality. I have noted that, although not yet adopted by the Council as part of its development plan, the LPSV has been through the examination process and has reached a very advanced stage. I am not aware of any unresolved objections to this policy so far as it relates to this appeal. Therefore, I have attached significant weight to this emerging policy.

Reasons

3. The main issues in this appeal are the effect of the proposed development on:-
 - the living conditions of the neighbouring occupiers in terms of outlook;
 - the character and appearance of the area.

Living conditions

4. The development plan includes policy DBE9 in the Epping Forest District Local Plan & Alterations (1998 & 2006) (LP) which is similar to emerging policy DM9 in seeking to ensure that development proposals do not result in undue loss of amenity to neighbouring occupiers. The appeal site is located within a residential area and comprises a semi-detached house at the head of the cul-de-sac which, like its neighbours on either side, has a large rear garden.
5. In 2021 the Council approved a Lawful Development Certificate (EPF/0205/21) which included the erection of an outbuilding to house a swimming pool in the

rear garden. I saw at my visit that an outbuilding has been built and I have noted that there is an on-going enforcement investigation. The outbuilding is sited close to the rear corner of the dwelling and close to the side boundary with no 14 Newnham Close. The appellant's statement says that it is 0.76m closer to the side boundary than the approved building and the Council says it is 1.24m from the side boundary and there does not appear to be any dispute between these measurements.

6. The plans show a rectangular building but at my visit I noted that at the end closest to the house there is a further element with a slightly lower single pitched roof that is not shown on the plans. There is no dispute between the parties regarding the 5m width and 4m height of the building which the parties say are as approved in the Certificate of Lawful Development. However, the plans show that the outbuilding measures 14.1m in length but the Council says that it is 14.7m. At my visit I measured it as being in excess of the Council's measurement, including the single pitched element.
7. The side boundary splays away from the dwellings which means that any view of the building from the rear windows and rear patio that adjoins the rear elevation of no 14 is at an oblique angle and the building would be outside a 45° line from there. Nevertheless, no 14 is sited at a lower ground level than the appeal property and from there the building is very clearly seen above the much lower fence separating the properties. Although no 14 has a large rear garden itself which is south facing and increases in width towards the rear boundary, the building's position is such that it is seen in the foreground. I agree with the appellant that the slightly closer siting to the boundary does not make a significant difference above the approved siting but the additional length (even on the basis of the appellant's asserted 14.1m) is significant. This, together with its height, has resulted in a building of excessive size and scale which, given the very close proximity to the boundary and difference in ground levels, when seen from no 14, is significantly overbearing. As the rear garden and patio of no 14 appear to be well used, the impact on the living conditions of those neighbours would be significant.
8. I have had regard to the fallback position that if the building were more than 2m from the boundary it would constitute permitted development although I have little evidence regarding the likelihood of construction of a building in that position and have therefore given only limited weight to the fallback position.
9. I have noted that the building accommodates a green wall and that the appellant would be willing to accept a condition for further landscaping along the boundary. However, it seems to me that there is insufficient space for further landscaping and whilst the green wall may soften the building somewhat, it cannot mitigate its impact sufficiently.
10. Whilst there was no objection from the occupiers of no 14, they might change at some point in the future and the Council's policies seek to protect both existing and future occupiers. The letter of support from the occupiers of the adjoining dwelling at no 16 does not outweigh the harm that would be caused to the occupiers of no 14.
11. The Council has not objected to the impact of the building on properties to the rear at Summerfield Road and as the building would be over 30m from those, I agree with the Council that it does not adversely harm their outlook.

12. I conclude then that the proposed development causes significant harm to the living conditions of the occupiers at 14 Newnham Close in terms of outlook and is contrary to both the development plan and emerging policies referred to earlier.

Character and appearance

13. Whilst there are other outbuildings within rear gardens in the vicinity of the appeal site, I saw none at my visit of the same size and scale as this proposal. However, the building is sited on a large plot and is not seen prominently in the street scene. The appeal dwelling is a large semi-detached house which has been extended across the rear and has a large dormer in the roof. The size and scale of the building is not therefore unduly disproportionate to the size and scale of the dwelling and its plot.
14. I have noted the attractive form of the building and its high quality contemporary materials of aluminium and zinc cladding to the external walls and roof, as well as timber detailing which complement another outbuilding adjacent to the other side boundary in the rear garden as well as the rear extension.
15. I find, therefore, that it does not cause significant harm to the character or appearance of the area and accords in this respect with development plan policy DBE10 in the LP which seeks to ensure that development proposals complement the street scene and the building and with emerging policy DM9 in the LPSV which requires that proposal are of a high quality design and relate positively to their locality.

Other matters

16. I have noted that the building has a high level of insulation and will use sustainable energy technology which will serve the pool and the dwelling, reducing its overall carbon footprint according to the appellant. Whilst such measures are to be encouraged, they do not outweigh the harm that would be caused in this case.
17. I understand that the pool would be used by an elderly member of the appellant's family who has a medical condition and whilst the proposal will be of benefit in that regard, I am not persuaded that it is essential in meeting that need or that the need could not be met in other ways.

Conclusion

18. Although I have found that the proposal is acceptable in terms of character and appearance, my conclusion regarding living conditions is significant and overriding. I conclude that the proposed development is contrary to the development plan in that regard and there are no material considerations that would outweigh this. The appeal should be dismissed.

Sarah Colebourne

Inspector