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## Appeal Decision

Site visit made on 17<sup>th</sup> October 2022

**by Megan Thomas K.C. Barrister-at-Law**

**an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities**

**Decision date:**

**1st November 2022**

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**Appeal Ref: APP/M3835/D/22/3301175**

**47 Hillside Avenue, Worthing BN14 9QS**

- 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 J Calvert against the decision of Worthing Borough Council.
  - The application Ref.AWDM/0037/22, dated 7 January 2022, was refused by notice dated 31 March 2022.
  - The development proposed is “extensions and alterations”.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in the appeal are the effect of the side extension on the living conditions of the occupants of no.45 Hillside Avenue in respect of privacy and outlook, and its effect on the health and/or form of a TPO'd pine tree and consequently the visual amenity of the area.

### Reasons

#### *Living conditions for Occupants of no.45 Hillside Avenue*

3. The appeal site consists of a two storey detached dwelling and its garden located on Hillside Avenue in Worthing. To its west is no.45 which is also a detached two storey house. To its east is no.49 and to its south, the drive of no. 49 and no.51. Hillside Avenue is a private road made up mainly of detached houses of differing designs set in good sized plots with established gardens.
4. There is pine tree near the common boundary with no.45 which is located approximately in line with the main road-side building line of no.47. The tree has public amenity value and is the subject of a Tree Preservation Order under Worthing Tree Preservation Order Number 26 of 1991.
5. The proposed development for the purposes of this appeal is a side extension on the western flank elevation which would have a ground floor and upper floor. The upper floor would have two front pitched-roof dormers. The use would be domestic garage and upstairs games room. There would be an external staircase on the western flank of the extension which would give access to the

upper floor via an external door on the upper floor. The external staircase is not shown on the Block Plan which was submitted with the planning application.

6. The proposed external door would be located close to the common boundary with no.45. No.45 has its access drive along the west side of the common boundary and this serves a door to the house which is on its eastern elevation and which appears to be used as the main door to the house. In addition, the eastern (side) elevation of no.45 has several openings. There is a sizeable ground floor window serving a habitable room and there are 4 first floor windows which probably serve bedrooms and at least one bathroom. Whatever the precise use of the rooms having openings on the east elevation of no.45, the comings and goings from the proposed upper floor external staircase and door of the proposed development would result in a serious loss of privacy for the occupants of no.45 when inside their house or using the side door. Overlooking would be from an elevated and very close viewpoint and the sight of the door to the upper floor of the proposed structure would give the perception of being overlooked even at times of non-use.
7. Turning to potential loss of outlook and undue sense of enclosure from the proposed side extension at the appeal site, whilst being close to the common boundary the proposed flank wall would not be of a depth or overall height that I consider would impart an unreasonable sense of enclosure for the occupants on no.45. The proposed rear (northern) wall of the extension would be flush with the main rear elevation of no.47 whilst the proposed front wall/garage doors would step well back from the road-side elevation of no.47 by about 3.5m. Consequently, the new structure would be located in a position that would not be unduly overbearing for the occupants of no.45 when moving in, out and around their house and plot. For those reasons, I conclude that the occupants on no. 45 would not suffer an unacceptable loss of outlook from the proposal.
8. Whilst I have found there to be no sustainable objection in respect of loss of outlook, I nevertheless conclude that there would be an unacceptable loss of privacy and overlooking from the proposed upper floor door of the new structure and this harm is sufficient to warrant refusal of planning permission. There would be conflict with policies H16 and H18 of the saved Worthing Local Plan 2003 and the Council's Supplementary Planning Guidance '*Extending or Altering Your Home*'.

#### *Potential Harm to Tree and Visual Amenity*

9. There is an attractive TPO'd pine tree located close to the common boundary with no.45 and approximately in line with the road-side elevation of the main house.
10. I consider that the proposed development would be sufficiently distant from the tree for it to avoid damaging the tree (including its crown) or for there to be pressure to prune it substantially. That conclusion however is subject to appropriate conditions which could be imposed to ensure that the construction of the extension would not harm the roots of the tree and that the tree would be suitably protected during construction. As such the potential harm to the tree and loss of visual amenity is not a reason to refuse planning permission in this case as it could be overcome by a suitable condition and I conclude that policies H16 or H18 of the saved Worthing Local Plan 2003 and policy 16 of the Worthing Core Strategy would not be breached.

## **Conclusion**

11. Notwithstanding the nuanced conclusions I have reached above in relation to the two main issues, I have weighed the harm to the privacy of the occupants of no.45 Hillside Avenue against the benefits of having the additional living and domestic space at the appeal site and concluded that the harm outweighs the benefits. Having taken into account all representations made, for the reasons given above, I dismiss the appeal.

*Megan Thomas K.C.*

INSPECTOR