
Appeal Decision

Site visit made on 23 November 2022

by H Lock BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2022

Appeal Ref: APP/M1520/D/22/3307207

51 Spencer Road, BENFLEET, Essex, SS7 3ET

- 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 Mrs Emma Fuke against the decision of Castle Point Borough Council.
 - The application Ref. 22/0315/FUL, dated 10 April 2022, was refused by notice dated 13 July 2022.
 - The development proposed is to demolish existing shed and construct two storey rear extension and fenestration alteration.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of occupants of 53 Spencer Road, with particular reference to outlook and the potential for overshadowing.

Reasons

3. The appeal property is a two-storey house which sits between 1½-storey properties with dormer windows and lower eaves heights. The siting of buildings is irregular with the appeal dwelling projecting beyond the rear of 53 Spencer Road (No.53) to the north. Both dwellings are set away from the shared boundary.
4. In support of its development plan policies, the Council has adopted the Castle Point Residential Design Guidance Supplementary Planning Document 2013. RDG3 of that document advises that development which would result in excessive overshadowing or dominance to any elevation of an adjoining property will be refused. The document advises that prescriptive guidance provides a baseline for assessment, but that each case will be evaluated on its own merits having regard to matters including distance from boundaries, orientation, height, boundary treatment and which rooms neighbouring windows serve.
5. The proposal would appear to breach a 45-degree angle from the middle of the closest ground floor habitable window of No.53. Whilst in some circumstances this may not cause material harm, the proposed rear extension would result in a largely blank wall projecting over 5m beyond the rear of No.53. The gap

between the two buildings would not be of sufficient size to mitigate an extension of the depth and height proposed, with the effect exacerbated by the eaves height and chalet-style design of No.53. The result would be an unduly dominant addition that would create an oppressive sense of enclosure for occupants of No.53. Having regard to RDG3, this dominance would be excessive.

6. Furthermore, the appeal property is located to the south of No.53. Whilst the relative position of buildings means that the appeal property would already have some shading effect on the rear of the neighbouring property, the proposed depth would cause additional overshadowing.
7. The appellant advises that an extension of similar size to the proposal could be constructed as Permitted Development (PD) under the provisions of Class A, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. A layout plan has been provided of a PD extension, although it would appear to be poorly aligned with the host building and its rooms, and no elevations have been supplied. Nevertheless, were such a development to be built, it would be further from the shared boundary with No.53, and could potentially have a different roofline. This extra gap may be reasonably modest, but compared to the appeal proposal it would introduce more space and a visual break to the expanse of wall. The fallback position would therefore have less impact than the proposal, and would not justify acceptance of the appeal scheme. That said, I acknowledge that the shading effect is likely to be similar with either extension.
8. I am mindful that there were no objections submitted in response to public consultation on the proposal. However, residents and their needs change, and it is appropriate to consider the impact on both current and future occupants of neighbouring buildings, and to avoid by design developments which could result in unsatisfactory living standards. Whilst I appreciate the benefits that the proposal would offer to accommodation at the appeal property, this would not outweigh the harm which has been identified.
9. I therefore conclude that the proposal would cause additional overshadowing and diminish the outlook for current and future occupants of 53 Spencer Road to an extent that living conditions would be harmed. Although the Council has not cited a development plan policy in the reason for refusal, the proposal would conflict with RDG3, which is consistent with the requirement in the National Planning Policy Framework to create places which promote health and well-being, with a high standard of amenity for existing and future users.
10. For the above reasons, I conclude that this appeal should be dismissed.

H Lock

INSPECTOR