



Appeal Decision

Site visit made on 13 December 2022

by K Winnard LL.B (Hons) Solicitor

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Appeal Ref: APP/W1525/D/22/3306354

512 Linnet Drive Chelmsford Essex CM2 8AN

- 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 Nazim Khan against the decision of Chelmsford City Council.
 - The application Ref 22/00749/FUL, dated 11 April 2022, was refused by notice dated 1 July 2022.
 - The development proposed is a two storey side extension and single storey front porch.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council amended the description of the development and I note that the applicant's agent has also utilised this description on the appeal form. I have used the Council's description as this provides a more accurate description of the development.

Main Issues

3. The main issues in this appeal are the effect of the proposed development on (i) the character and appearance of the host dwelling and the area and (ii) the living conditions of the occupiers of adjacent neighbouring properties, Nos 374 and 376 Linnet Drive with particular reference to overlooking/privacy.

Reasons

Character and Appearance

4. The appeal property, 512 Linnet Drive (No 512) is the end dwelling of a terrace of properties located in a residential area characterised by similar blocks of terraced and semi-detached dwellings linked by footpaths and areas of public open space. No 512 is highly visible in views from an area of public open space in front of the dwelling and the footpaths adjacent to it which run along its western boundary and to the south. Whilst it has been extended previously, this addition has not significantly altered its modest form and a sense of space between No 512 and the adjacent western footpath is retained.
5. The appeal proposal would result in a sizable two storey extension matching the height of the existing dwelling. The proposed development would result in

an overly large addition to the host dwelling relative to its existing proportions. Whilst No 512 benefits from a larger plot the scale of the proposed development would appear unduly dominant and highly visible in the context of the host dwelling and the terrace of dwellings as a whole. I accept that the area in general is of high density, however by almost entirely filling the side garden at ground and first floor level, the resultant dwelling would unacceptably erode the buffer space currently afforded in this location.

6. I note that the proposal would be constructed in matching materials and that the fenestration details would align with the host dwelling. However matters of good design are fundamental to all development, as stated within the National Planning Policy Framework (Framework) and as such do not represent a notable benefit.
7. On this issue, I therefore conclude that the proposal would cause harm to the character and appearance of the host dwelling and the area. As such it would be contrary to Policy DM23 of the Chelmsford Local Plan (Local Plan) which requires development to be compatible to the character and appearance of the area and where relevant, to the host building in terms of amongst other things, scale, form, materials and detailing. It would also be contrary to the Framework which requires development to be sympathetic to local character.

Living Conditions

8. Whilst there is an existing landing window in the side elevation of No 512 at first floor level, the inclusion of windows in the proposed side extension to a bedroom at first floor level would be in much closer proximity to the gardens of Nos 374 and 376 Linnet Drive. Accordingly this would provide for closer, and in the case of No 374 direct, views onto the gardens from a high vantage point. As a consequence, there would be an unacceptable detrimental effect on the living conditions of the occupiers of the two properties in respect of overlooking and loss of privacy to the detriment of the occupiers' enjoyment of their property and garden together with a perception of overlooking.
9. I acknowledge within built up areas that there is a level of mutual tolerance to overlooking. However, in this instance the juxtaposition of No 512 to these neighbouring dwellings, and the inclusion of windows in the side elevation, would be significantly closer to the boundary. It would mean that the degree of impact of overlooking from No 512 would be much greater than that mutually tolerable level.
10. For the above reasons the proposal would result in unacceptable harm to the living conditions of the occupiers of Nos 374 and 376 Linnet Drive. As such it would not comply with Policy DM29 of the Local Plan which requires development proposals to safeguard the living conditions of occupiers of nearby residential dwellings and not to result in unacceptable overlooking. It would also fail to comply with the Framework which seeks to protect the amenity of occupiers of adjacent properties.

Conclusion

11. For the reasons given and having taken all matters into account, I dismiss the appeal.

K Winnard

INSPECTOR