

Appeal Decision

Site visit made on 25 April 2023

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th April 2023

Appeal Ref: APP/X1545/D/23/3318014

48 Dorset Road, Maldon, Essex CM9 6JX

- 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 C Wallis against the decision of Maldon District Council.
 - The application Ref HOUSE/MAL/22/01020, dated 27 September 2022, was refused by notice dated 15 December 2022.
 - The development proposed is a rear single storey extension plus converting existing garage into a new bedroom including raising existing flat roof.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect on the living conditions of the residents of 50 Dorset Road with regard to outlook.

Reasons

3. The Council's concern relates only to the impact of the rear extension on the amenities of the neighbouring residents to the east, at 50 Dorset Road. At present there is a high fence between these two properties. The proposal would result in a high wall close to the boundary which would be just under 3 metres high and would extend 4.6 metres into the garden. The neighbouring property has a single width glazed door from the living room into the garden at the closest point to the boundary and two further ground floor windows. The house beyond has a rear conservatory extension.
 4. The proposal would enclose the area immediately to the rear of the neighbouring property due to the position, height and depth of the side wall of the extension. This would increase shading at certain times of the day and reduce outlook from the rear facing living room and also the immediately adjacent area of garden. The outlook is already constrained to some extent by the extension at number 52.
 5. Permitted development rights generally allow rear extensions of up to three metres deep as described by the appellant, although this proposal does include other works. Notwithstanding this, the additional proposed depth of 1.64
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- metres would not significantly alter the level of shading. However, it would increase the level of enclosure and as a consequence, it would reduce outlook.
6. Reference has been made to additional permitted development rights that allow extensions of up to six metres in depth. The appellant has indicated that discussions have taken place with the neighbouring residents with regard to this proposal and no representations have been received. The full planning application and the prior notification procedures are different and although there has been no correspondence from the neighbouring residents, it cannot be assumed that none would be forthcoming if an alternative procedure was able to be followed. The assumption that an objection with regard to this particular element would be unlikely, whilst appearing reasonable, cannot be assumed. In the absence of evidence that such an addition could be lawfully built, it does not represent a fall-back position at present and cannot be afforded weight.
 7. On balance and taking the lack of objection to the proposal into account, I agree with the Council that this overall depth of high wall close to the boundary and above the existing fence height, given the width of the neighbouring garden and the existing outlook from the doors and windows of its rear facing room; and the enclosure of the immediately associated garden area, would unacceptably harm the living conditions of the neighbouring residents due to the reduction in outlook. It would therefore conflict with Policy D1(4) of the Local Development Plan 2014 – 2029 (2017) which seeks to protect the amenity of surrounding areas including with regard to outlook; and Policy H4(7) which requires consideration of the amenities of neighbouring properties. These policies are consistent with the National Planning Policy Framework's design requirements which seek high standards of amenity for existing and future users. The policies can therefore be afforded full weight.
 8. The appellant has provided a plan showing other rear extensions in the area. The information does not demonstrate that these are of the same depth along the boundary. I cannot assume that the circumstances are entirely consistent with this proposal. I also have no evidence to suggest that the council has acted inconsistently in its approach.
 9. Whilst I have had regard to the particular circumstances of the appellant and her family and the benefits that such a proposal would bring, the weight I afford these matters is reduced as these overall benefits could be achieved, to a large extent, with a similar but smaller addition that would have a lesser impact on the residents of 50 Dorset Road. As there are no other matters that outweigh my concerns, I dismiss the appeal.

Peter Eggleton

INSPECTOR