

Appeal Decision

Site visit made on 19 July 2023

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2023.

Appeal Ref: APP/J1535/D/23/3323171

44 Blackacre Road, Theydon Bois, Epping, Essex CM16 7LU

- 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 Alistair & Thanh Gunn against the decision of Epping Forest District Council.
 - The application Ref EPF/0529/23, dated 8 March 2023, was refused by notice dated 25 April 2023.
 - The development proposed is new single-storey rear extension at lower ground floor level and replacement of existing single-storey side extension, with two storey rear side return infill to provide vertical circulation.
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Decision

1. The appeal is allowed and planning permission is granted for a new single-storey rear extension at lower ground floor level and replacement of existing single-storey side extension, with two storey rear side return infill to provide vertical circulation at 44 Blackacre Road, Theydon Bois, Epping, Essex CM16 7LU. The permission is granted in accordance with the terms of the application Ref EPF/0529/23, dated 8 March 2023, subject to the conditions included in the Schedule at Annexe A.

Preliminary Matters

2. The Epping Forest District Local Plan 2011-2033 was adopted shortly before the decision in this case was made. As this plan replaces the previous Local Plan, I have had regard only to the policies referred to in the decision notice from the newly-adopted plan.

Main Issue

3. The main issue is the effect of the proposed lower ground floor extension on the character and appearance of the host dwelling and the surrounding area.

Reasons

4. The appeal property is a three storey semi-detached dwelling located in a residential road of semi-detached and detached properties of individual design and appearance.

5. The Council's principal concern with the rear extension is its disproportionate scale, particularly its depth, to the host dwelling. It indicates that extensions of this size have largely been undertaken to detached dwellings in the road.
6. The built form of No 44 and its adjoining neighbour is substantial, with both dwellings set within generous, linear plots. The height of the dwellings to the rear is accentuated due to the gardens being on lower ground than to the front of the plot. No 42 has a side extension that projects beyond the original rear building line. The proposed extension to No 44 would be deeper than this, but would have a flat roof and the single storey continuation of the side extension would be set back from the full depth of the rear extension.
7. Taking these factors together, the depth of the extension would be seen in the context of the overall size of the existing principal built form, particularly its height, as well as the long rear garden. In addition, its bulk and massing would be limited by the flat roof and partial set-back of the side element. For these reasons, the extension would be a proportionate addition to the host dwelling.
8. I am also mindful in reaching this finding that the extension would not be visible from the public realm to the front of the appeal property. Due to the boundary treatment to either side, it would not readily be visible from neighbouring gardens. It would be seen from the rear windows of the dwellings to either side and from the raised seating area to the rear of No 42. However, from these views it would be seen in the context of the long rear garden and would not be a disproportionate, dominant or otherwise unusual feature.
9. Therefore, for these reasons, I conclude that the proposed lower ground floor extension would not have a harmful effect on the character and appearance of the host dwelling and the surrounding area. Consequently, in this regard the proposal is not contrary to Policies DM9 and DM10 of the Epping Forest District Local Plan 2011-2033 (2023), which require all new development to achieve a high quality of design. There is also no conflict with the National Planning Policy Framework, which promotes well-designed places.

Other Matters

10. I have had regard to all the representations made by interested parties, both for and against the proposal. Concerns are expressed about the effects of the proposed extensions on the living conditions of the neighbouring occupiers to either side of No 44. The side wall of the lower ground floor extension would be of similar depth to the existing boundary wall and fence between the appeal property and No 42, and of limited additional height. As such, it would not result in loss of outlook or light to the neighbouring garden to the extent that this would result in material harm. I am satisfied that the submitted plans are sufficiently clear for development to be implemented in accordance with them.
11. The raised seating area to the rear of No 42 and the rear windows above this are relatively close to the position of the main rooflight serving the lower ground floor extension. However, due to the angles of sight involved, normal use of the respective rooms and seating area would not enable mutual overlooking and loss of privacy.

12. There is no basis to find that normal residential occupation of the proposed extensions would result in excessive noise. The proposal includes a number of different glazed areas that will result in additional light sources compared to the existing situation. However, these are not so extensive or unusual in a residential setting such as this that they would result in harm to neighbouring occupiers' living conditions. Reference is made to a 'dark skies' policy, but I am unaware of the details and I am mindful that the Council has not indicated that the proposal is contrary to such a policy.
13. The proposal does not involve substantive changes to existing planting to the rear garden and on the boundaries with neighbouring dwellings. There is no basis to suggest that planting on the boundaries outside the site will be harmfully affected. I note, however, that the Council's trees and landscape officer suggests a condition to ensure retention of trees and shrubs and tree protection, where necessary. I agree that this is necessary in the interests of the character and appearance of the area.
14. Retention of existing boundary planting and any additional planting will ensure that neighbouring occupiers' amenity is not adversely affected. The limited reduction to the width of the appeal property's path next to the boundary will not result in any harm. Notwithstanding this, however, I accept that any windows that might subsequently be included in the side elevation facing No 46 could result in a harmful loss of privacy. I agree, therefore, with the Parish Council's suggestion for a condition limiting permitted development rights in this regard. Similarly, I agree that additional rooflights should be controlled to avoid any unintended consequences for neighbouring occupiers. I agree also that a condition should prevent use of the flat roof of the lower ground floor extension for amenity purposes, to protect living conditions.
15. Due to the different ground levels across the site, I agree with the Parish Council's suggestion for a condition requiring details of finished levels to be submitted and approved to ensure appropriate implementation of development. There is no evidential basis to conclude that the development will result in harm due to structural effects on neighbouring dwellings, or due to drainage issues; or that it will be harmful to wildlife.
16. Concerns about the current proposal setting a precedent for further development in the area, or preventing development at neighbouring dwellings, cannot have a direct bearing on the outcome of this appeal. Any future development proposals would need to be considered on their merits against policies and circumstances pertaining at the time. Therefore, while I have had regard to all the matters raised, for the reasons given above, these do not alter the overall conclusion in this case.

Conclusion and Conditions

17. For the reasons given above, it is concluded that the appeal should succeed. In addition to the conditions already referred to, I have imposed the standard time condition and, to ensure the proper implementation of development, one requiring development to be carried out in accordance with the approved plans. I agree that a condition requiring matching materials is necessary in the interests of the character and appearance of the dwelling and surrounding

area. However, as the details of some external finishes are shown on the approved drawings I have amended the condition to acknowledge this.

J Bell-Williamson

INSPECTOR

Annexe A

Schedule – conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 02-201 P3, 02-202 P3, 02-203 P3, 00-204 P3, 02-001 P3, 02-002 P3, 02-003 P3, 02-004 P3 and 02-005 P3.
- 3) Materials to be used for the external finishes of the proposed development shall match those of the existing building, unless shown otherwise on the approved plans.
- 4) No ground works shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed extensions, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 5) No ground works shall take place until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include indications of all existing trees, shrubs and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no further windows or fenestration shall be constructed in the flank elevation facing No 46 Blackacre Road and no further rooflights shall be constructed in any part of the extensions without the prior written approval of the local planning authority.
- 7) The flat roof over the rear extension shall not be used as a seating area, roof garden, patio or terrace, or for any other recreational or amenity use, at any time.

[End of Schedule]