
Appeal Decision

Site visit made on 24 February 2024

by Elaine Benson BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th March 2024

Appeal Ref: APP/W1525/D/23/3332008

20 Meadgate Avenue, Great Baddow, Chelmsford, Essex CM2 7LG

- 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 Oana Ionescu against the decision of Chelmsford City Council.
 - The application Ref 23/00773/FUL, dated 10 May 2023, was refused by notice dated 3 August 2023.
 - The development proposed is part two-storey, part single-storey rear extension. Single storey front extension. Addition of new catslide element to rear roof slope. Addition of first floor side window. Alterations to existing fenestration.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant's description of development set out on the planning application form is detailed. For brevity, I have used the Council's description in the heading above.
3. The Council raises no objection to the proposed front extension or the roof alterations, including the dormer. Accordingly, this decision focusses on the matter in dispute which is the single-storey rear extension element of the appeal proposal.

Main Issue

4. The main issue in this appeal is the effect of the proposed single-storey rear extension on the living conditions of the occupiers of the adjacent property, No 18 Meadgate Avenue (No 18).

Reasons

5. The proposed rear extension would run adjacent to the common boundary shared with No 18. Its height would be 3.65m, with a depth of 5.15m. It would extend 4.62m beyond the rear wall of the existing single storey rear extension of No 18.
6. The appellant contends that aspects of the appeal proposal, including the single-storey rear extension, would be 'permitted development'. This may well be the case. However, there is no Certificate of Lawfulness to confirm this and therefore no established 'fall-back' position. But in any event, this appeal follows a refusal of planning permission and is therefore required to be

considered on its planning merits and in accordance with the relevant planning policies of the Chelmsford Local Plan (LP).

7. Of relevance to this appeal, LP Policy DM29 states that development proposals must safeguard the amenities of the occupiers of any nearby residential property by ensuring that development is not overbearing and does not result in unacceptable overlooking or overshadowing. In support of this policy, Appendix B of the LP sets out detailed standards that apply to residential development, including extensions, to minimise adverse impacts on neighbouring occupiers. To ensure that ambient light and overbearing impact is taken into account, new development should comply with the Council's 45-degree assessment.
8. I observed at my site visit that due to its height and depth, the proposed single-storey rear extension would harm the living conditions of the occupiers of the neighbouring property by causing an unacceptably overbearing effect and overshadowing. This conclusion is borne out by the demonstrated breach of the 45-degree line in plan and in elevation. The presence of a boundary fence between the properties does not affect this conclusion as the extension would extend above it.
9. In conclusion, the proximity, height and depth of the proposed single-storey rear extension would be overbearing and would result in a harmful level of overshadowing on the occupiers of No 18. This would be contrary to LP Policy DM29 and the associated design guidance and would run counter to the similar objectives of the National Planning Policy Framework 2020.
10. I do not have the full details of the other developments in the area referred to by the appellant. But in any event, their site-specific contexts and the planning or permitted development status of the cited works are likely to be materially different to those of the appeal proposal, which has been determined on its own merits.
11. For the reasons set out above and having regard to all other matters raised, the appeal is dismissed.

Elaine Benson

INSPECTOR